

Community Hospital of Springfield, Et Al.

Case No.: 93-CV-0208

COMMON PLEAS COURT

CLARK COUNTY

STATE OF OHIO

— — —

CONNIE EDINGTON!
ADMINISTRATOR OF THE ESTATE
OF ETHAN ANDREW EDINGTON,
DECEASED,

PLAINTIFF, ■
 ■

4 VS .

CASE NO. 93-CV-0208

COMMUNITY HOSPITAL OF
SPRINGFIELD! INC., ET AL.,

DEFENDANTS. ■

— — —

DEPOSITION OF

STEPHEN J. DEVOE, M.D.

AUGUST 22, 1995

E & A REPORTING SERVICE, INC.
915 SOUTH FRONT STREET
COLUMBUS! OHIO 43206
(614) 445-6300

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DEPOSITION OF STEPHEN J. DEVOE, M.D., AN

EXPERT WITNESS CALLED BY THE PLAINTIFF AS IF UPON

CROSS-EXAMINATION, TAKEN BEFORE ME, DENISE L. SHOEMAKER, A REGISTERED PROFESSIONAL REPORTER AND NOTARY PUBLIC WITHIN AND FOR THE STATE OF OHIO, AT THE OFFICES OF THE DEPONENT, 3555 OLONTANGY RIVER ROAD, COLUMBUS, OHIO, COMMENCING AT 4:03 P.M., SAID DEPOSITION TAKEN PURSUANT TO THE STIPULATIONS HEREINAFTER SET FORTH.

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APPEARANCES:

GERALD S. LEESEBERG, ESQ., OF THE LAW FIRM OF LEESEBERG, MALOON, SCHULMAN & VALENTINE, 175 SOUTH THIRD STREET, COLUMBUS, OHIO 43215, APPEARING ON BEHALF OF THE PLAINTIFF.

MARK L. SCHUMACHER, ESQ., OF THE LAW FIRM OF JACOBSON, MAYNARD, TUSCHMAN & KALUR, SUITE 900, ONE CITIZENS FEDERAL CENTRE, DAYTON, OHIO 45402, APPEARING ON BEHALF OF DEFENDANT DR. DAVID BILLING.

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APPEARANCES (CONT'D.):

FREDERIC X. SHADLEY, ESQ., OF THE LAW FIRM OF BENESCH, FRIEDLANDER, COPLAN & ARONOFF, 600 VINE STREET, CINCINNATI, OHIO 45202, APPEARING ON BEHALF OF DEFENDANT ANN MOSS.

MICHAEL C. WEAVER, ESQ., OF THE LAW FIRM OF MARTIN, BROWNE, HULL & HARPER, ONE SOUTH LIMESTONE STREET, SPRINGFIELD, OHIO 45501, APPEARING ON BEHALF OF DEFENDANT COMMUNITY HOSPITAL OF SPRINGFIELD.

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STIPULATIONS

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IT IS AGREED AND STIPULATED BY AND AMONG COUNSEL FOR THE RESPECTIVE PARTIES HEREIN THAT THIS DEPOSITION MAY BE TAKEN IN SHORTHAND BY DENISE L. SHOEMAKER, WHO MAY LATER, OUT OF THE PRESENCE OF THE WITNESS, TRANSCRIBE OR CAUSE SAID SHORTHAND NOTES TO BE TRANSCRIBED; THAT THE FORMALITIES AS TO THE TIME AND PLACE OF THE TAKING OF THE DEPOSITION ARE PURSUANT TO NOTICE; AND THAT THE QUALIFICATIONS OF THE OFFICER BEFORE SHALL BE EXPRESSLY WAIVED.

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1 THEREUPON,
2 STEPHEN J. DEVOE, M.D.
3 BEING BY ME FIRST DULY SWORN,
4 AS HEREINAFTER CERTIFIED,
5 TESTIFIES AND SAYS AS FOLLOWS:
6 CROSS-EXAMINATION
7 BY MR. LEESEBERG:
8 Q WOULD YOU STATE YOUR FULL NAME FOR THE
9 RECORD, PLEASE.
10 A STEPHEN JOHN DEVOE.
1 Q DR. DEVOE, WE'VE MET PREVIOUSLY. I
2 REPRESENT THE FAMILY OF ETHAN EDINGTON IN THIS CASE
3 I'M GONG TO BE ASKING YOU A FEW QUESTIONS ABOUT
4 YOURSELF AND YOUR INVOLVEMENT IN THE CASE, ANY
5 OPINIONS THAT YOU HOLD OR HAVE FORMULATED IF I ASK
6 YOU ANY QUESTIONS THAT AREN'T CLEAR OR DON'T MAKE
7 SENSE, JUST LET ME KNOW OR MARK AND I'LL BE HAPPY TO
8 REPHRASE OR CLARIFY THEM SO YOU DO UNDERSTAND THE
9 OKAY?
10 A YES.
11 Q YOU HAVE BEEN DEPOSED BEFORE?
12 A YES.
13 Q YOU UNDERSTAND THE COURT REPORTER IS
14 TAKING DOWN BOTH MY QUESTIONS AS WELL AS YOUR

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1 ANSWERS?
2 A YES
3 Q IF A TRANSCRIPT IS PREPARED FROM THE
4 DEPOSITION, ONE OF THE USES OR PURPOSES OF WHICH IS
5 CROSS-EXAMINATION OR IMPEACHMENT SHOULD YOU CHANGE
6 YOUR TESTIMONY AT A LATER TIME DO YOU UNDERSTAND
7 THAT?
8 A YES
9 Q APPROXIMATELY HOW MANY TIMES WOULD YOU
10 SAY YOU'VE BEEN DEPOSED?
11 A I DON'T KNOW I'M NOT GOING TO GUESS
12 Q MORE THAN TEN?
13 A YES
14 Q MORE THAN 20?
15 A YES
16 Q MORE THAN 30?
17 A I HAVE NO IDEA
18 Q WE'VE GOT AT LEAST 20 THEN, RIGHT?
19 YOU HAVE BEEN RETAINED BY JACOBSON, MAYNARD IN
20 CONNECTION WITH THIS CASE?
21 A THAT'S CORRECT
22 Q WHEN WERE YOU FIRST CONTACTED?
23 A EARLIER THIS YEAR FEBRUARY OR MARCH,
24 I WOULD GUESS

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1 Q BY WHOM ARE YOU INSURED FOR
2 PROFESSIONAL LIABILITY?
3 MR. SCHUMACHER: OBJECTION.
4 A P.I.E.
5 Q OTHER THAN BEING A SHAREHOLDER IN THE
6 MUTUAL, HAVE YOU SERVED IN ANY CAPACITY WITH THE
7 INSURANCE COMPANY IN ANY ADMINISTRATIVE MANAGERIAL
8 CAPACITY?
9 A NO.
10 Q HAVE YOU SERVED ON ANY REVIEW BOARDS
11 FOR THE P.I.E. INSURANCE COMPANY OR THE JACOBSON,
12 MAYNARD LAW FIRM?
13 A I HAVE BEEN IN A COUPLE AD HOC EVENING
14 MEETINGS OVER THE YEARS. PROBABLY TWO OR THREE IN 15
15 YEARS.
16 Q THAT'S WHERE THEY GATHER A GROUP OF
17 OB/GYN'S TOGETHER DURING AN EVENING SESSION AND
18 REVIEW A NUMBER OF CASES?
19 A THAT'S CORRECT.
20 Q HAVE YOU EVER BEEN A DEFENDANT IN A
21 MEDICAL MALPRACTICE CASE?
22 A YES.
23 Q HOW MANY OCCASIONS?
24 A ONE.

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1 Q WHEN WAS THAT?
2 A 1982. I COULD BE WRONG A YEAR.
3 Q JUST THE ONE TIME THAT YOU'RE AWARE
4 OF?
5 A THAT'S RIGHT.
6 Q WHO WERE YOU INSURED WITH AT THAT
7 TIME?
8 A P.I.E.
9 Q DID JACOBSON, MAYNARD REPRESENT YOU IN
10 CONNECTION WITH THAT CASE?
11 A YES.
12 Q DO YOU RECALL WHICH LAWYER?
13 A BILL DAVIS.
14 Q DID THE CASE GO TO TRIAL?
15 A NO. IT WAS DISMISSED.
16 Q ANY OTHER CLAIMS PENDING AGAINST YOU
17 THAT YOU'RE AWARE OF?
18 A NO.
19 Q HOW MANY TIMES HAVE YOU TESTIFIED AT
20 TRIAL?
21 A I DON'T KNOW.
22 Q WHAT IS YOUR BEST ESTIMATE?
23 A SIX, EIGHT.
24 Q WERE THOSE ALL AS MEDICAL-LEGAL

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1 CONSULTANTS OR EXPERTS?
2 A YES.
3 Q AND WERE YOU TESTIFYING ON THOSE
4 OCCASIONS ON BEHALF OF THE PHYSICIAN?
5 A NOT ALWAYS.
6 Q ON HOW MANY OCCASIONS HAVE YOU
7 TESTIFIED AT TRIAL ON BEHALF OF A PATIENT?
8 A AT LEAST ONCE, THAT I REMEMBER.
9 Q WHO WAS THE ATTORNEY THAT YOU WORKED
10 WITH?
11 A WALTER RECKLESS AND AN ASSOCIATE OF
12 HIS.
13 Q DO YOU RECALL WHAT THAT CASE INVOLVED?
14 A YES.
15 Q WHAT DID IT INVOLVE?
16 A ALLEGATION OF UNNECESSARY SURGERY.
17 THE PATIENT HAD A LAPAROTOMY EITHER FOR PAIN OR FOR
18 AN OVARIAN CYST, IT WAS A YOUNG PERSON, AND SHE
19 SHOULD HAVE HAD A LAPAROSCOPY. SHE HAD NO POSITIVE
20 FINDINGS AND THE LAPAROTOMY WAS UNNECESSARY.
21 Q WHAT PERCENTAGE OF YOUR MEDICAL-LEGAL
22 CONSULTING IS ON BEHALF OF PATIENTS AS OPPOSED TO
23 DOCTORS?
24 A VERY LITTLE IS ON BEHALF OF PATIENTS.

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1 Q HOW FREQUENTLY DO YOU CONSULT AS A
2 MEDICAL-LEGAL EXPERT AT THE CURRENT TIME? IN OTHER
3 WORDS, HOW **MANY** CASES DO YOU LOOK AT ON A WEEKLY OR
4 MONTHLY BASIS?
5 A I PROBABLY REVIEW **ONE** A MONTH, **TWO**
6 MAYBE **SOME** MONTHS, BUT FEWER THAN **24** CASES A YEAR
7 Q DO YOU **KNOW** HOW **MANY** CASES YOU'RE
8 PRESENTLY SERVING AS AN EXPERT IN?
9 A I HAVE NO CLUE BECAUSE YOU GUYS SETTLE
10 CASES AND I NEVER FIND OUT UNTIL I CALL. EVERY YEAR
11 I ACTUALLY CALL A BUNCH OF PEOPLE **AND** THROW AWAY
12 ABOUT THREE CUBIC YARDS OF **FILES** SOME OF **THEM ARE**
13 EIGHT OR **TEN** YEARS OLD
14 Q HOW DO YOU CHARGE **FOR** YOUR TIME IN
15 CONNECTION WITH THESE REVIEWS?
16 A BY THE HOUR
17 Q WHAT IS YOUR HOURLY RATE?
18 A \$300 NO MINIMUMS, NOTHING LIKE THAT
19 Q SAME RATE **FOR** DEPOSITION **AND** TRIAL
20 TESTIMONY?
21 A THAT'S CORRECT
22 Q SO IT'S **JUST** A STRAIGHT \$300 AN HOUR
23 NO MATTER WHAT **YOU'RE** DOING?
24 A RIGHT

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1 Q **WHAT** PERCENTAGE **OF** YOUR TIME DO YOU
2 SPEND **AS** A MEDICAL-LEGAL CONSULTANT, OF YOUR
3 PROFESSIONAL TIME?
4 A NOT VERY **MUCH**. **COUPLE** HOURS A WEEK
5 **SOME** WEEKS EIGHT OR TEN, AND OTHER WEEKS I GO A MONTH
6 WITHOUT PICKING UP A **FILE**
7 Q WHAT PERCENTAGE OF YOUR INCOME WOULD
8 YOU SAY YOU DERIVE **FROM** YOUR MEDICAL-LEGAL WORK?
9 A I DON'T **HAVE** ANY IDEA
10 Q NO IDEA AT ALL?
11 A **WELL, NO, NOT REALLY**
12 Q DOES **THAT MONEY** GO TO YOU PERSONALLY,
13 OR DOES IT GO **TO** YOUR PRACTICE?
14 A IT GOES **TO ME** PERSONALLY WE KEEP
15 INDEPENDENT **BOOKS**
16 Q BUT YOU DON'T RECALL EVER LOOKING AT
17 YOUR TAX RETURN?
18 A I **MAKE SURE** THE NUMBERS ADD UP AND
19 THAT **KIND** OF STUFF
20 Q **WHO** WERE YOU **FIRST** **CONTACTED** BY IN
21 THIS CASE?
22 A MR. SCHUMACHER
23 Q BY **HIM** PERSONALLY?
24 A YES

Page 1

1 Q HOW WERE YOU CONTACTED?
2 A I DON'T REMEMBER. PROBABLY BY PHONE
3 WITH A FOLLOW-UP LETTER.
4 Q DO YOU KNOW HOW MR. SCHUMACHER CAME TO
5 CALL YOU IN PARTICULAR?
6 A NO.
7 Q HOW **MANY** HOURS HAVE YOU SPENT ON THIS
8 CASE TO DATE?
9 A **FOUR, FIVE.**
10 Q **HOW** DO YOU BREAK **THAT** DOWN?
11 A WHAT DO YOU MEAN?
12 Q WELL, HOW DID YOU SPEND THAT FOUR TO
13 FIVE HOURS, WHAT WERE YOU DOING?
14 A I SPENT AN HOUR-AND-A-HALF INITIALLY
15 WORKING WITH THE RECORD AND TALKING TO HIM ON THE
16 PHONE LAST WINTER. THEN I SPENT THE BALANCE OF THAT
17 TIME REVIEWING THE RECORD IN THE LAST FEW DAYS AND
18 READING **SCHWARTZ'S** DEPOSITION.
19 Q READING SCHWARTZ IN THE LAST FEW DAYS
20 AS WELL?
21 A **THE** LATTER PART OF THAT STATEMENT
22 APPLIES **TO** THAT.
23 Q **IS** THAT THE LAST TIME YOU READ
24 SCHWARTZ'S DEPO?

Page 1

1 A YES.
2 Q ANY OTHER DEPOS YOU HAVE REVIEWED IN
3 THIS CASE?
4 A I READ FROM SCHWARTZ THERE HAVE BEEN A
5 NUMBER OF OTHERS. I HAVE NOT GOT THEM. I LOOKED AT
6 VERY BRIEF PORTIONS **OF**, I GUESS, MRS. EDINGTON'S.
7 Q WHEN YOU SAY BRIEF PORTIONS, WERE YOU
8 SUPPLIED BRIEF PORTIONS OR DID YOU ONLY READ BRIEF
9 PORTIONS?
10 A I ONLY READ BRIEF PORTIONS. I JUST
11 GOT SUPPLIED THE DEPOS TODAY.
12 Q I SEE. IN YOUR PREDEPOSITION MEETING?
13 A RIGHT.
14 Q **HOW** LONG DID YOU MEET WITH MR.
15 SCHUMACHER BEFORE **YOUR** DEPOSITION?
16 A WE ONLY TALKED ABOUT THE CASE **20**
17 **MINUTES** AND WE SOCIALIZED ABOUT AN HOUR. I **APOLOGI**
18 **FOR** LETTING YOU SIT OVER HERE. I DIDN'T REALIZE YOU
19 WERE HERE.
20 Q SO DURING THAT **20** MINUTES **IS** WHEN YOU
21 REVIEWED SOME BRIEF PORTIONS OF HER DEPOSITION
22 TESTIMONY AS WELL AS REWEWED THE CASE WITH MR.
23 SCHUMACHER?
24 A THAT'S CORRECT.

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1 Q DID HE DIRECT YOUR ATTENTION TO
2 SPECIFIC PORTIONS OF THE DEPO THAT HE WANTED YOU TO
3 LOOK AT?
4 A YES.
5 Q WHAT PORTIONS OF THE DEPOSITION WERE
6 THOSE OR WAS THAT OR WERE THEY?
7 A PLAINTIFF'S ALLEGATIONS THAT SHE DID A
8 LOT OF BLEEDING AFTER SHE LEFT THE HOSPITAL. I READ
9 FOUR OR FIVE PAGES IN THE MIDDLE OF THAT AREA.
10 Q ANYTHING ELSE THAT YOU READ IN HER
11 DEPO?
12 A NO.
13 Q DID MR. SCHUMACHER INDICATE TO YOU
14 THAT HE FELT THAT WAS A SIGNIFICANT FACT OR
15 STATEMENT?
16 A NO. HE DIDN'T MAKE ANY JUDGMENT ON
17 IT. HE THOUGHT I SHOULD READ IT BECAUSE " I DON'T
18 KNOW. I GUESS YOU WOULD HAVE TO ASK HIM WHY HE
19 THOUGHT I OUGHT TO READ IT.
20 Q HE DIDN'T TELL YOU WHY HE THOUGHT IT
21 WAS APPROPRIATE?
22 A I THINK HIS FEELING IS A LARGE FUSS IS
23 GOING TO BE MADE ABOUT A LOT OF BLEEDING SHE DID
24 AFTER SHE LEFT THE HOSPITAL, WHICH I FIND

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1 INTERESTING.
2 Q WHEN DID YOU READ SCHWARTZ'S
3 DEPOSITION?
4 A LAST NIGHT AND THIS MORNING.
5 Q DID THAT COME TO YOU IN THE MAIL?
6 A GEEZ, I DON'T KNOW. I IMAGINE. YES.
7 Q DID IT COME TO YOU YESTERDAY OR --
8 A NO, I'VE HAD IT. I HAD IT.
9 Q DID YOU READ IT IN ITS ENTIRETY?
10 A YES.
11 Q DID YOU MAKE ANY NOTATIONS IN THE
12 DEPOSITION TRANSCRIPT?
13 A IN THE TRANSCRIPT, NO.
14 Q HIGHLIGHTS OR TAG THE EARS OF THE
15 PAGES --
16 A NO.
17 Q -- WHATEVER YOU CALL IT?
18 A NO.
19 Q HAVE YOU PREPARED ANY NOTES IN
20 CONNECTION WITH YOUR REVIEW OF THIS CASE?
21 A YES.
22 Q WHERE ARE THOSE?
23 A THEY'RE HERE IN MY FILE.
24 Q MAY I SEE THOSE, PLEASE.

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1 A SURE.
2 Q WHY DON'T YOU BRING YOUR WHOLE FILE UP
3 HERE AND WE WILL IDENTIFY THAT.
4 A MY NOTES CONSIST OF EXTRACTING THE
5 PERTINENT FACTS FROM THE FILE SO I DON'T HAVE TO
6 REVIEW EVERYTHING AGAIN. THIS IS SCHWARTZ RIGHT
7 THERE.
8 Q OKAY. THESE ARE YOUR NOTES THAT
9 YOU'VE EXTRACTED CERTAIN FACTS?
10 A RIGHT. SO I DON'T HAVE TO REVIEW THE
11 RECORD AGAIN. I DISTILL OUT THE FACTS. NO OPINIONS
12 OR EDITORIAL COMMENTS.
13 Q I HATE TO DO THIS. I CAN'T READ YOUR
14 HANDWRITING.
15 A IT TOOK THAT LONG TO FIGURE THAT OUT?
16 Q SOMETIMES IF YOU LOOK AT IT LONG
17 ENOUGH, YOU BEGIN TO DECIPHER IT, AND I'M NOT ABLE
18 TO. IF I COULD, WHAT I WOULD LIKE YOU TO DO IS JUST
19 GO THROUGH HERE AND READ THIS INTO THE RECORD.
20 A OKAY. YOU WANT EVERY WORD?
21 Q PLEASE.
22 A MARK SCHUMACHER (513) 226-0333.
23 EDINGTON AND OTHERS VERSUS BILLING AND OTHERS.
24 ERICKA EDINGTON, DOB 11-1-75. 1-29-92 REGISTRATION

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1 DATE NURSE MIDWIFE CENTER H AND P 5-91 ELECTIVE
2 AB LMP QUESTION MARK EDC BY SIZE 6-13-92
3 PELVIC, QUOTATION, APPROXIMATELY 24-WEEK SIZE, END
4 QUOTE FOUR PRENATAL VISITS BLOOD PRESSURE IS
5 NORMAL WEIGHT 150 TO 161 URINE IS ALL NEGATIVE
6 FHT'S OKAY. 140, 140, 160, 148 EDC 4-10-92 LATE
7 ULTRASOUND LAB GESTATIONAL AGE ULTRASOUND 3-12
8 ONE-HOUR GLUCOSE CHALLENGE TEST 144 DASH ABNORMAL
9 THREE-HOUR GLUCOSE TOLERANCE TEST NORMAL EXAM AT 39
0 WEEKS CERVIX ONE PLUS CENTIMETERS 80 TO 90
1 PERCENT EFFACED MINUS ONE THERE'S AN ARROW DOWN,
2 WHICH I ASSUME IS FROM THE RECORD I'M NOT SURE WHAT
3 THAT MEANS
4 PROGRESS NOTES ROUTINE UNTIL 4-8
5 COMPLAINS OF BABY NOT MOVING ALL TODAY VAGWAL
6 BLEEDING, WHICH SATURATED A PAD IN ONE HOUR WAS
7 CHECKED 4-7 IN LABOR AND DELIVERY THIS WAS ENTERED
8 1900
9 A IUP AT 40 WEEKS QUESTION MARK, I
0 CAN'T READ WHAT THE CHART SAID RULE OUT NONREACTIVE
1 FETUS PLS PLAN, GO TO LABOR AND DELIVERY NST AND
2 SLEEP MEDS AS NEEDED ULTRASOUND NO SURPRISES 50TH
3 PERCENTILE FOR 35 9 WEEKS AMNIOTIC FLUID VOLUME
4 NORMAL, AND SOMETHING I COULDN'T READ

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1 LABOR AND DELIVERY PHYSICAL EXAM
2 SHEET. 114/80, 120, FIVE FEET ONE INCHES TALL. TWO
3 CENTIMETERS MINUS ONE, 75 PERCENT.
4 NARRATIVE. IN WHEELCHAIR COMPLAINING
5 OF LOWER ABDOMINAL PAIN, UNABLE TO VOID. 2200, VE,
6 2/75 PERCENT, VISTARIL 75 MILLIGRAMS I.M. MOSS. TEMP
7 96, PULSE 120, RESPIRATIONS 120, BLOOD PRESSURE
8 114/80. HFT IS 120. LOW FETAL HEART RATE, DIET POOR
9 TODAY. I.V. ABDOMEN TIGHT, LARGE BABE. DR. BILLING
10 HERE TO EXAMINE. HYDRATE MORE. 0050, WHICH WAS A
11 TIME, VAGINAL EXAM NO CHANGE.
12 PATIENT NOW COMFORTABLE. HYDRATE MORE
13 THEN DC. 0125, AGAIN THE TIME, I.V. OUT. DISCHARGED
14 IN WHEELCHAIR TO PRIVATE CAR WITH MOM, MOSS,
15 SIGNATURE.
16 4-7, MONITOR (DONE), WSTARIL (DONE),
17 BOLUS WITH 1000 CC D5 RINGER'S LACTATE (DONE),
18 DISCHARGE.
19 SUMMARY. ADMIT 4-8-92, COMPLAINING OF
20 MUCOUS BLOOD-TINGED VAGINAL DISCHARGE. GOING ON AL
21 DAY WITH NO MOVEMENT. REMEMBERS LARGE AMOUNT OF
22 FETAL MOVEMENT AT 4:00 P.M. 4-7-92. LABOR AND
23 DELIVERY 4-7-92. COMPLAIN OF LOWER ABDOMINAL PAIN,
24 MONITORED PER EXTERNAL FETAL MONITOR HEART TONES

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1 HAD BASELINE 90 TO 100 WITH GOOD VARIABILITY LV
2 HYDRATED THEN AND GOT VISTARIL. RESPONDED WELL.
3 FHT'S PER ELECTRONIC FETAL MONITOR WERE 110 TO 120
4 BASELINE WITH GOOD VARIABILITY AFTER HYDRATION
5 NOTICED INCREASED AMOUNT OF BLOODY
6 MUCOUS DISCHARGE AFTER VAGINAL EXAM 47 DISCHARGE
7 CONTINUED THROUGH 4-8 PHONED AT 7:00 P.M.
8 COMPLAINED OF DISCHARGE, NO FETAL MOVEMENT SENT TO
9 LABOR AND DELIVERY. NO CONTRACTIONS AT LABOR AND
10 DELIVERY SOFT ABDOMEN, MILD UTERINE IRRITABILITY, NO
11 PALPABLE CONTRACTIONS. 97.3, PULSE 96, RESPIRATIONS
12 16, 138/90 FHT NEGATIVE, DOPPLER.
13 EFM 110 TO 120 WITH GOOD VARIABILITY
14 ALWAYS COINCIDENT WITH MATERNAL HEARTBEAT VERY
15 PALE IN LABOR AND DELIVERY PRESENTATION H AND H 61
16 AND 18 P EQUALED 141,000, WHICH IS PLATELETS NINE
17 CENTIMETER BULGING BOW (BURNS' DICTATION) CAME IN
18 FROM HOME. PATIENT COMPLETE AND BULGING DR WATSON
19 CAME IN, DID ULTRASOUND, NO FETAL HEART LARGE
20 AMOUNT OF CLEAR AMNIOTIC FLUID INTERNAL FETAL
21 MONITOR 140 TO 150 EQUALS MOM. AT 2239 OR 37
22 SEVEN-AND-A-HALF-POUND MALE MACERATED CORD REDUCED
23 EASILY TIMES ONE, THREE VISCERAL CORD
24 PLACENTA SPONTANEOUSLY WITH

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1 APPROXIMATELY 1,500 CC DARK OLD BLOOD CLOTS CORD
2 AT MARGIN PLACENTA VERY THIN DRUG SCREEN ORDERED
3 PATH 655 GRAMS, 18 CENTIMETERS, 1 5
4 CM THICK MATERNAL SURFACE FLATTENED, LOBULATED,
5 BROWNISK INTACT, COTYLEDONS IN SOME AREAS PLACENTA
6 IS MARKEDLY THINNED AND COTYLEDONS APPEAR TO BE
7 FIBROTIC
8 MICRO PLACENTA REVEALING AREAS OF
9 INFARCTION, CALCIUM AND HYALIN RED CHORIONIC VILLI
10 WITH AMNIONITIS
11 NOTE 4-9-91 FROM BILLING ABOUT HIS
12 ENCOUNTER, AGREES WITH MOSS ALSO SAYS ABDOMEN WAS
13 FIRM BUT NOT TIGHT WITH NO COMPLAINTS OF PAIN
14 TENDERNESS AT EXTREME PUSH NOTE FROM MOSS REPEATING
15 EVENTS OF 4-7
16 LABOR ROOM RECORD FHT 120 ON
17 ADMISSION 2230, 118 2300, 114 QUESTION MARK,
18 122 0020, 130 0050, 1235 0125. 118 IRREGULAR
19 SIX WEEKS POSTPARTUM 6-5-92 ABDOMEN
20 EXTERNAL, UNABLE TO PALPATE (TIGHT ABDOMEN) SIGNED
21 BY A DIFFERENT PERSON
22 DISCHARGED SUMMARY, K A WATSON DOT,
23 DOT, DOT, AFTER DISCHARGE SHE DID FEEL FETAL
24 MOVEMENT FELT FETAL MOVEMENT ON AM OF 4-8 THEN

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1 STARTED HAVING REGULAR CONTRACTIONS AND PRESENTED
2 NO FETAL HEART TONES, NEGATIVE DRUG SCREEN.
3 THAT'S BASICALLY THE CHART. IN THE
4 MARGIN OF THE THING, IF ABRUPTED, WHY NO CHANGE IN
5 CERVIX? WHY NO CHANGE IN CERVIX IF TETAN?"
6 BURNS' HANDWRITTEN NOTE. LARGE AMOUNT
7 OF FETAL MOVEMENT AT 1600 4-7. ONE FETAL MOVEMENT AT
8 2300 ON 4-7.
9 Q JUST FOR CLARIFICATION, WHAT ARE YOU
10 READING FROM NOW?
11 A FROM THE SAME NOTES THAT I MADE THAT
12 ARE FROM THE RECORD. ?
13 Q OKAY.
14 A FROM REVIEW OF THE RECORD. ONE FETAL
15 MOVEMENT AT 2300 4-7, NOTHING SINCE. 3-13,
16 HEMOGLOBIN AND HEMATOCRIT 11.6 AND 34. EFM STRIPS.
17 BASELINE 110. FREQUENT VARIATION. 07408 RISES TO
18 130, GOOD VARIABILITY AND OCCASIONAL EXCEL.
19 YOU WANT ME TO READ MY NOTE ABOUT
20 SCHWARTZ'S DEPOSITION?
21 Q PLEASE.
22 A SCHWARTZ REFUSES TO PRODUCE COPY OF
23 THE REPORT. THREE DEVIATIONS CITED. PROLONGED
24 BRADYCARDIA AT 39 WEEKS. I CAN'T READ MY OWN

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1 WRITING SOMETHINGEARLY ABRUPTION AND NOTHING **DONE**
2 SHOULD **HAVE** DELIVERED HER, C-SECTIONED HER ON **4-7**
3 BRADYCARDIA AT END OF **STRIP 4-7-8 VISIT**. MOSS AND
4 BILLING DEVIATED
5 **29**, KEEP SAYING BOW BULGING I DON'T
6 THINK SO ON **4-7-8**. **30**, CLAIMS EFM SHOWS UTERINE
7 TETANY **44**, PARTIAL **AP** CHILD SALVAGEABLE THEN.
8 QUOTATION, THAT I KNOW, UNQUOTE **45**, CLAIMS SEVERE
9 ABDOMINAL PAIN BUT CAN'T **FIND IT** IN THE RECORD **47**,
10 CRYING, WRITHING, ET CETERA, DURING CONTRACTIONS.
11 STOPPED AFTER FLUID **51**, QUOTE. NOT COMMON TO **SEE**
12 INCREASED BLEEDING AFTER **EXAM**. UNQUOTE **59**, READS
13 MUCH **INTO** RESTING TONE. **70**, REPETITIVE CONTRACTIONS
14 SUPERIMPOSED, HE STATES **75**, BLOOD ON GLOVE
15 REGARDLESS OF **AMOUNT** IS ABNORMAL AFTER EXAM. **84**,
16 ULTRASOUND REQUIRED TO DIAGNOSE ABRUPTION **87**, SAYS
17 **7448** EQUALS **LESS THAN 120** IS BRADYCARDIC. **IT'S**
18 ACTUALLY **118** **108**, SAYS HYDRATION WOULD HAVE NO
19 BEARING ON HFT
20 REFUSES TO PRODUCE LETTER. THEN IT
21 GOES TO **12-9-94** THE OTHER WAS IN OCTOBER. AGAIN
22 REFUSES TO PRODUCE LETTER. STATES SHE'S HIGH RISK
23 SECONDARY TO ABNORMAL **ONE** HOUR AND A RACCOON BITE,
24 **LATE** PRENATAL CARE.

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1 **33**, CLAIMS TETANY ONE CONTRACTION
2 AFTER ANOTHER. HE'S WRONG ON DEFINITION **38**,
3 INDENTABLE. IF **IT'S** INDENTABLE, **THERE'S** NO TETANY
4 **47**, HASN'T READ BILLING'S DEPOSITION. UNAWARE IF HE
5 **WAS** AWARE OF BLOODY DISCHARGE **67**, DOESN'T KNOW IF
6 WHEN BILLING WAS THERE THE PATIENT HAD A TENSE
7 ABDOMEN **79**, MARGINAL CORD INSERTION, HE'S UNAWARE
8 OF **THIS**. ERICKA CLAIMS ONE PAD AN HOUR BLEEDING
9 **THAT'S** ABOUT IT. **1,500** CC'S OF BLOOD **LOSS** AT
0 DELIVERY, ETCETERA. **THAT'S** BASICALLY IT
1 Q **THANKS**. I HAD ASKED YOU EARLIER
2 WHETHER YOU MADE ANY NOTATIONS IN DR. SCHWARTZ'S
3 DEPOSITION WHILE YOU WERE READING YOUR NOTES, I
4 **LOOKED** THROUGH THE **TWO** TRANSCRIPTS HERE, AND THERE
5 ARE UNDERLININGS THROUGHOUT THE TRANSCRIPTS
6 A YOU ASKED **ME** ABOUT TABS AND **TURNED**
7 OVER BUTTON HOLES, MARKED PAGES. I ASSUMED YOU **MEANT**
8 WITH POST-ITS AND ALL THAT JAZZ
9 Q NO. ARE **THE** NOTATIONS THAT ARE IN
10 THESE **TWO** TRANSCRIPTS NOTATIONS THAT YOU'VE MADE?
11 A YES. **THINGS** I **JUST** READ TO YOU
12 BASICALLY
13 Q YOU HAVE NOT READ DR. BILLING'S
14 DEPOSITION?

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1 A THAT'S CORRECT.
2 Q YOU'VE NOT READ THE DEPOSITION OF
3 ERICKA --
4 A THIS IS IT.
5 Q THAT BEING THE TWO VOLUMES OF
6 DEPOSITIONS OF SCHWARTZ?
7 A RIGHT.
8 Q THERE ARE TWO VOLUMES OF MEDICAL
9 RECORDS, VOLUME 1 OF **2** **IS** -- WELL, WITHOUT GOING INTO
10 THAT. VOLUME **2** OF **2** CONTAINS SOME RECORDS, WHICH ON
11 MY BRIEF REVIEW HERE ARE FROM PERIODS OF TIME OTHER
12 THAN THE HOSPITALIZATION WHICH **IS** INVOLVED IN THIS
13 CASE. IS THAT YOUR UNDERSTANDING?
14 A YES.
15 Q IS THERE ANYTHING IN VOLUME **2** IN TERMS
16 OF RECORDS THAT IN ANY WAY, SHAPE OR FORM ARE
17 RELEVANT TO THE ISSUES IN THIS CASE?
18 A I DON'T THINK SO.
19 Q BOTH PRIOR OR SUBSEQUENTLY?
20 A I DON'T BELIEVE SO. LET ME TAKE A
21 QUICK GLANCE. I DON'T THINK SO. I WOULD HAVE
22 WRITTEN SOMETHING DOWN ABOUT **THEM**.
23 Q IS THAT CORRECT?
24 A THAT'S CORRECT.

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1 Q THERE IS A PATHOLOGY REPORT **THAT'S**
2 LOOSE FROM, WHAT WOULD APPEAR TO BE ONE OF THE
3 VOLUMES OF RECORDS, **4-9-92**. I ASSUME **THAT'S** FROM
4 VOLUME **1**
5 A I DON'T KNOW. I THOUGHT THAT **WAS**
6 INTERESTING. SMALL PLACENTA FOR A 16 YEAR OLD. I
7 DON'T KNOW WHY IT'S LOOSE
8 Q IN ADDITION TO WHAT WE'VE ALREADY
9 COVERED, THERE ARE LETTERS FROM MR. SCHUMACHER TO
0 YOURSELF DATED MARCH 16, MAY 17 AND JULY 18 OF 1995
1 IS THAT YOUR COMPLETE FILE THEN?
2 A YES
3 Q DID YOU REVIEW ANY MEDICAL LITERATURE
4 PRIOR TO YOUR DEPOSITION TODAY?
5 A NO
6 Q AT ANY **TIME** DURING YOUR INVOLVEMENT IN
7 THIS CASE HAVE YOU REVIEWED ANY MEDICAL LITERATURE IN
8 CONNECTION WITH THIS CASE?
9 A NO
0 Q **WHAT** MEDICAL TEXTS DO YOU CONSIDER TO
1 BE THE **MOST** RELIABLE SOURCES OF INFORMATION
2 PERTAINING TO OB/GYN?
3 MR. SCHUMACHER: OBJECTION
4 GO AHEAD AND ANSWER IT. IF YOU **CAN**

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1 A MOST RELIABLE, THAT'S A NEW WAY OF
2 ASKING THE QUESTION. THERE ARE SOME THAT ARE BETTER
3 THAN OTHERS.
4 BY MR. LEESEBERG:
5 Q I'M JUST LOOKING FOR THE TOP TWO OR
6 THREE IN YOUR MIND.
7 A I LIKE CREASY AND RESNIK. I LIKE
8 GABE'S TEXTBOOK. THERE IS A MEDICAL BOOK THAT IS
9 UNRELATED TO THIS CASE THAT I LIKE. I DON'T REMEMBER
10 THE TITLE.
11 Q WHAT ABOUT JOURNALS, BEST TWO OR THREE
12 JOURNALS PERTAINING TO OB/GYN?
13 A I TAKE THE USUAL BUNCH. AMERICAN
14 JOURNAL OF OB/GYN --
15 Q WHAT I'M ASKING, IN YOUR MIND WHAT ARE
16 THE TWO OR THREE BEST ONES PERTAINING TO OB/GYN?
17 A THAT'S WHAT I WAS TELLING YOU
18 ACTUALLY. THE GRAY JOURNAL, GREEN JOURNAL. PROBABLY
19 THE TWO BEST IN THAT ORDER. THE NEW ENGLAND JOURNAL
20 OF MEDICINE HAS RELEVANT ARTICLES FROM TIME TO TIME
21 THAT ARE IMPORTANT. THE AMA JOURNAL HAS RELEVANT
22 ARTICLES. WHEN THEY DO, THEY'RE USUALLY PRETTY
23 IMPORTANT.
24 Q THAT'S GOOD. DO YOU HAVE A C.V. WITH

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1 YOU BY CHANCE?
2 A I HAVE ONE THAT'S ACROSS THE HALL.
3 Q ANY PUBLICATIONS?
4 A YES.
5 Q WHEN WAS THE LAST TIME YOU PUBLISHED?
6 A ACTUALLY A RESIDENT WROTE A PAPER
7 UNDER MY SUPERVISION ON COCAINE USE IN PREGNANCY
8 THAT'S IN THE JOURNAL OF DRUG REHAB, OR SOMETHING
9 LIKE THAT BEFORE THAT IT'S BEEN ABOUT TEN YEARS
10 THAT I WROTE AN ARTICLE. LABORATORY DIAGNOSIS OF
11 HYPERTENSION IN PREGNANCY
12 Q HAVE YOU EVER PUBLISHED ANYTHING
13 PERTAINING TO THE ISSUES IN THIS CASE, DIAGNOSIS,
14 TREATMENT, MANAGEMENT OF ABRUPTION OF PLACENTA?
15 A NO. NOT IN WHICH IT WAS THE THESIS OF
16 THE ARTICLE. I HAVE WRITTEN SOME THINGS THAT MIGHT
17 HAVE BEEN MENTIONED BUT NOTHING IMPORTANT NOTHING
18 RELATED TO THE ISSUES HERE
19 Q YOU HAD INDICATED EARLIER WHEN I ASKED
20 ABOUT HOW YOU SPENT YOUR TIME, THE FOUR TO FIVE HOURS
21 TO DATE IN THIS CASE. YOU INDICATED THAT YOU SPENT AN
22 HOUR AND A HALF LOOKING AT THE RECORDS AND DISCUSSING
23 THE CASE WITH MR. SCHUMACHER TO BEGIN WITH
24 A RIGHT

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1 Q IS IT ACCURATE THAT YOU WERE ABLE TO
2 FORMULATE YOUR OPINIONS IN THIS CASE BASED UPON THAT
3 HOUR-AND-A-HALF REVIEW AND DISCUSSION WITH MR
4 SCHUMACHER?
5 A YES I FORMED MY OPINIONS BEFORE AND
6 DISCUSSED IT WITH HIM THAT'S THE PURPOSE OF THE
7 REVIEW
8 Q SO ASSUMING YOU SPENT ABOUT A HALF
9 HOUR TALKING TO MR. SCHUMACHER ABOUT THE CASE, THEN
10 YOU SPENT ABOUT AN HOUR LOOKING AT THE CASE AND
11 REVIEWING THE RECORDS AND FORMULATING YOUR OPINIONS?
12 A GIVE OR TAKE A FEW MINUTES IT'S BEEN
13 SEVERAL MONTHS
14 Q THE NOTES THAT YOU PREPARED IN
15 REVIEWING DR. SCHWARTZ'S DEPOSITION, I APOLOGIZE, I
16 WASN'T PAYING ATTENTION, I WAS LOOKING AT OTHER
17 THINGS TO TRY TO SHORTEN THIS UP. IS IT FAIR TO SAY
18 THAT THOSE ARE NOTATIONS OF PLACES WHERE YOU TAKE
19 ISSUE WITH WHAT DR. SCHWARTZ IS SAYING IN HIS
20 DEPOSITION?
21 A NO, THAT'S NOT ACCURATE WHAT THEY
22 ARE ARE NOTES OF WHERE HE MAKES A COMMENT THAT'S
23 REALLY PERTINENT AS OPPOSED TO STUFF THAT'S
24 PERIPHERAL OR SOMETHING I WANT TO MAKE SURE I

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1 REMEMBER. SOME OF THEM I TAKE ISSUE WITH THEM. MOST
2 OF THEM ARE THINGS THAT ARE PERTINENT.
3 Q AS YOU SIT HERE TODAY, IN WHAT RESPECT
4 DO YOU RECALL DISAGREEING WITH DR. SCHWARTZ?
5 A I THINK HE'S WRONG ON THE IDEA THAT
6 SHE HAD CLINICAL SIGNS OF AN ABRUPTION. THERE
7 WEREN'T FINDINGS COMPATIBLE WITH ABRUPTION ENOUGH
8 THAT WARRANTED DELIVERY WHEN SHE CAME IN. IF YOU
9 PRACTICE LIKE HE SAID, YOU WOULD HAVE AN ENORMOUS
10 SECTION RATE. MAYBE HE DOES SECTION EVERYBODY WHO
11 HAS A STORY LIKE ERICKA. I TAKE ISSUE WITH THAT.
12 I TAKE ISSUE WITH HIS RELIANCE ON THE
13 ROLE OF ULTRASOUND FOR THE DIAGNOSIS OF ABRUPTION
14 FLAT OUT WRONG. ULTRASOUND IS A SECONDARY TOOL FOR
15 THE DIAGNOSIS OF ABRUPTION. ALWAYS HAS BEEN. I
16 DON'T SEE ANY CHANGE IN THAT. THAT'S PRETTY MUCH
17 UNIVERSALLY FELT.
18 Q OKAY.
19 A THOSE ARE MAJOR ISSUES. HE STRESSES
20 ALL THIS BLEEDING. I READ THE RECORD, AND I'M GLAD
21 YOU HAD ME READ THIS STUFF BECAUSE THE HOSPITAL
22 RECORD DOES NOT SHOW A GREAT DEAL OF BLEEDING.
23 CONSTANTLY TALKING ABOUT BLOODY DISCHARGE, BLOODY
24 MUCUS. WHEN THE PATIENT RETURNS ON THE EVENING OF

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1 APRIL 8TH, SHE COMPLAINS OF BLOODY DISCHARGE. IF
2 YOU'RE BLEEDING A LOT, SHE'D SAY, I'VE BEEN BLEEDING
3 ALL DAY. SHE WOULDN'T SAY, I'VE HAD BLOODY DISCHARGE
4 ALL DAY; BECAUSE I'VE BEEN THERE. SO I DISAGREE WITH
5 HIM ON THAT.
6 Q DO YOU EVER HAVE A PATIENT COME IN TO
7 YOU AND SAY, DOCTOR, I'VE HAD A BLOODY DISCHARGE?
8 A SURE.
9 Q USE THOSE WORDS?
10 A FREQUENTLY. ALL THE TIME AFTER AN
11 EXAM. JUST WHAT THIS PATIENT, ERICKA OR HER MOM SAID
12 AFTER SHE WAS EXAMINED, SHE HAD MORE BLOODY
13 DISCHARGE. THAT'S STEREOTYPE. HAPPENS FIVE TIMES A
14 WEEK, TEN TIMES A WEEK.
15 Q I WANT TO MAKE SURE I'M VERY CLEAR.
16 I'M NOT ASKING YOU IF YOU HAVE PATIENTS REGULARLY
17 REPORT TO YOU THAT AFTER AN EXAMINATION THEY'VE HAD
18 SOME BLEEDING, WHAT I'M ASKING YOU IS AFTER AN
19 EXAMINATION, DO YOU FIND IT TYPICAL FOR A PATIENT WHO
20 IS EXPERIENCING BLEEDING TO SAY, DOCTOR, I'M HAVING A
21 BLOODY DISCHARGE?
22 A YES. OR BLOODY MUCUS. USE THOSE
23 WORDS. IT'S SO COMMON AFTER AN EXAM THAT MY NURSE
24 AND I TELL EVERYBODY THAT'S GOING TO GET AN EXAM IN

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1 LATE PREGNANCY, YOU SHOULD EXPERIENCE -- YOU WILL
2 PROBABLY EXPERIENCE SOME BLOODY DISCHARGE OR BLOODY
3 MUCUS AFTERWARDS, SO THEY DON'T CALL US AT 9:00 AT
4 M G M SAYING, I HAVE BLOODY MUCUS, AND THEY WILL, IN
5 THOSE WORDS, OR BLOODY DISCHARGE.
6 Q WOULD YOU FIND IT UNUSUAL FOR A
7 16-YEAR-OLD UNMARRIED, UNSOPHISTICATED GIRL OF
8 RELATIVELY LIMITED EDUCATION TO REFER TO VAGINAL
9 BLEEDING AS A BLOODY DISCHARGE?
10 A NO. THEY DESCRIBE WHAT THEY SEE AND
11 HEAR. PARTICULARLY YOU'RE LOOKING AT THE CONVERSE.
12 IF YOU'RE BLEEDING AND THERE WAS REALLY A LOT OF
13 BLOOD. SHE WOULD SAY, I'M BLEEDING. THIS IS BLOOD
14 SHE WOULDN'T COME BACK AND SAY, I HAVE BLOODY
15 DISCHARGE.
16 Q IF IN FACT ERICKA WAS BLEEDING IN A
17 GREATER AMOUNT THAN IS REFLECTED IN THE HOSPITAL
18 RECORDS, YOU WOULD AGREE THAT RAISES SIGNIFICANT
19 CONCERNS AND ISSUES, WOULD YOU NOT?
20 MR. SCHUMACHER: OBJECTION
21 A YOU MEAN A HYPOTHETICAL HERE?
22 Q YES
23 A BECAUSE THE RECORD DOESN'T SUPPORT
24 THAT AT ALL.

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1 Q WHAT I'M ASKING YOU IS IF WE ASSUME
2 THAT IN FACT SHE WAS EXPERIENCING BLEEDING GREATER
3 THAN IS REFLECTED IN THE HOSPITAL RECORD, YOU DON'T
4 DISAGREE THAT WOULD RAISE SERIOUS CONCERNS OR ISSUES
5 CONCERNING THE HEALTH AND WELL-BEING OF BOTH MOTHER
6 AND BABY?
7 MR. SHADLEY: OBJECTION
8 MR. SCHUMACHER: OBJECTION
9 A I DON'T DISAGREE, ASSUMING YOU AND I
10 MEAN THE SAME THING WHEN YOU SAY BLEEDING MORE THAN
11 BLOODY DISCHARGE OR WHATEVER YOU SAID
12 BY MR. LEESEBERG:
13 Q I THINK WE'RE ALL IN AGREEMENT WHAT
14 THE RECORD REFLECTS IN TERMS OF BLEEDING. AND YOU
15 DON'T FEEL THAT'S SIGNIFICANT?
16 A ABSOLUTELY IT'S NOT
17 Q OR OUT OF THE ORDINARY?
18 A ABSOLUTELY IT'S NOT
19 Q JUST TO MAKE SURE WE ARE NOT HAVING A
20 SEMANTIC DISAGREEMENT, IF IN FACT ERICKA EDINGTON WAS
21 BLEEDING MORE SIGNIFICANTLY THAN JUST A USUAL BLOODY
22 DISCHARGE, THAT IN YOUR MIND WOULD RAISE SIGNIFICANT
23 CONCERNS?
24 A YES

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1 Q LET ME TOUCH ON THE TWO OTHER POINTS
2 YOU MENTIONED ABOUT DR. SCHWARTZ'S DEPOSITION. THE
3 ROLE OF ULTRASOUND IN ABRUPTION. DID I UNDERSTAND
4 YOU TO SAY THAT'S ALWAYS BEEN A SECONDARY TOOL FOR
5 DIAGNOSIS OF AN ABRUPTION?
6 A YES
7 Q WHAT IS THE PRIMARY TOOL?
8 A BEDSIDE EVALUATION
9 Q THAT TIES BACK INTO THE FIRST ONE
10 YOU SAID THAT YOU DIDN'T FEEL SHE HAD CLINICAL SIGNS
11 OF AN ABRUPTION -
12 A RIGHT
13 Q -- WARRANTING DELIVERY?
14 A RIGHT
15 Q WE WILL TAKE THAT IN TWO PARTS. DID
16 YOU UNDERSTAND DR. SCHWARTZ TO BE ADVOCATING THAT
17 THIS PATIENT BE ADMITTED AND IMMEDIATELY TAKEN TO
18 SURGERY?
19 A EITHER THAT OR INDUCED. HE SAID SHE
20 SHOULD BE DELIVERED ONE WAY OR ANOTHER. AT ONE POINT
21 HE KIND OF CLARIFIED AND SAID YOU OUGHT TO TRY
22 EVASIVE MONITORING ON IT, HE CALLED IT, AND SEE HOW
23 THINGS WENT
24 Q DID YOU COME AWAY FROM DR. SCHWARTZ'S

1 DEPOSITION WITH THE IMPRESSION THAT PRIOR TO
2 IMMEDIATELY INDUCING HER OR TAKING HER FOR C-SECTION
3 THAT HE FELT **SOME** DIAGNOSTIC THINGS SHOULD BE DONE?
4 A YES, **THAT'S** THE ULTRASOUND, WHICH IS
5 USELESS
6 Q IT'S USELESS FOR WHAT?
7 A DIAGNOSE OF ABRUPTION
8 Q YOU'RE SAYING IT HAS NO PLACE IN THE
9 DIAGNOSIS OF AN ABRUPTION?
10 A NOT NO PLACE EXCUSE THE GRAMMAR
11 MOST ABRUPTIONS PRESENT WITH BLEEDING THE STANDARD
12 THING WE DO WITH A THIRD TRIMESTER BLEEDER IS
13 ULTRASOUND LOOKING FOR PLACENTA PREVIA AS A RESULT.
14 WHENEVER YOU ULTRASOUND ENOUGH THIRD TRIMESTER
15 BLEEDERS, YOU ULTIMATELY ULTRASOUND SOMEBODY WHO HAS
16 AN ABRUPTION INSTEAD OF PREVIA OR INSTEAD OF SOME
17 INNOCUOUS CAUSE SO MOST PEOPLE WITH ABRUPTION DO
18 END UP GETTING AN ULTRASOUND. BUT ULTRASOUND IS NOT
19 USEFUL IN MAKING THE DIAGNOSE OF ABRUPTION
20 Q YOU'RE TALKING TOO FAST FOR ME TO KEEP
21 UP WITH YOU, TO UNDERSTAND WHAT YOU'RE SAYING ARE
22 YOU SAYING **THAT** IN A PATIENT IN WHOM YOU SUSPECT
23 **MIGHT** HAVE AN ABRUPTIONAL PLACENTA THAT AN ULTRASOUND
24 IS NOT WARRANTED?

1 A YOU'RE TRYING TO MAKE EVERYTHING BLACK
2 AND WHITE IT'S A JUDGMENT THING. IF A PHYSICIAN
3 FEELS BEDSIDE THE PATIENT REALLY HAS AN ABRUPTION.
4 YES, ULTRASOUND IS NOT WARRANTED
5 Q IT'S NOT WARRANTED?
6 A IT'S NOT WARRANTED IF HE'S CONVINCED
7 THAT A PATIENT HAS AN ABRUPTION, THEN YOU **DON'T** DO AN
8 ULTRASOUND
9 Q WHAT DO YOU DO?
10 A DEPENDING ON WHAT THE BABY LOOKS LIKE,
11 YOU RUPTURE MEMBRANES OR YOU **TAKE THEM** BACK FOR
12 SECTION **WHAT** YOU DON'T DO IS SPEND 10 OR 15 MINUTES
13 ON ULTRASOUND OR CALLING IN A RADIOLOGIST **FROM** HOME
14 TO COME IN AND DO IT **THAT'S** WHAT YOU DON'T DO
15 Q WHEN YOU SAY YOU CHECK TO SEE HOW THE
16 BABY'S DOING, HOW WOULD YOU CHECK TO SEE HOW THE BABY
17 IS?
18 A FETAL MONITOR. EXTERNAL OR PREFERABLY
19 INTERNAL, AND DEPENDING ON THAT YOU GET HER TO
20 DELIVERY IF YOU THINK **IT'S** AN ABRUPTION
21 Q IF YOU W'N'T **THINK** IT'S AN ABRUPTION.
22 YOU'RE SAYING YOU DON'T DO AN ULTRASOUND?
23 A **THAT WAS** THE COMPLICATED ANSWER **THAT**
24 YOU DIDN'T FOLLOW IF YOU HAVE SOMEBODY WHO PRESENTS

1 WHO IS STABLE, WHO HAS A SATISFACTORY FETAL HEART
2 RATE AND IS BLEEDING, YOU **MIGHT** -- YOU WOULD DO AN
3 ULTRASOUND IN THAT CASE WE'RE LOOKING FOR PLACENTA
4 PREVIA
5 Q SO LET'S TALK HYPOTHETICALLY A WOMAN
6 COMES TO THE HOSPITAL, SAY SHE'S NEAR TERM, SHE'S
7 STABLE, SHE'S GOT SATISFACTORY FETAL HEART TONES OR
8 RATE BUT SHE PRESENTS WITH **BLEEDING**
9 A RIGHT
10 Q YOU'VE INDICATED **THAT** YOUR FIRST
11 SUSPICION IS PLACENTA PREVIA
12 A NO I THINK **THAT'S** ONE OF THE FIRST
13 THINGS, **THAT'S** AN INDICATION TO DO AN ULTRASOUND
14 YOU ASKED WHAT ARE THE CONDITIONS I DO AN ULTRASOUND,
15 I THINK
16 Q THE REASON YOU ARE WING AN ULTRASOUND
17 IS FOR WHAT?
18 A FIND OUT WHERE THE PLACENTA IS YOU
19 **DON'T** STICK YOUR FINGER THROUGH IT DOING A VAGINAL
20 EXAM
21 Q FIND OUT WHERE IT'S AT?
22 A WHERE IT IS, RIGHT
23 Q YOU DON'T USE ULTRASOUND TO DCAGNOSE
24 THE PREVIA EITHER?

1 A **THAT'S** WHAT I SAID DO YOU KNOW WHAT
2 PREVIA IS?
3 Q NO
4 A I'M **SORRY** PLACENTA PREVIA MEANS THE
5 PLACENTA IS OVER THE CERVIX YOU WANT TO FIND OUT
6 WHERE THE PLACENTA IS SO YOU CAN FIND OUT IF IT'S
7 OVER THE CERVIX AND **THAT'S** THE SOURCE OF THE
8 BLEEDING IN LATE PREGNANCY, PEOPLE BEGIN TO
9 CONTRACT AND THEY CAN START PEELING THE PLACENTA **OFF**
10 A LITTLE BIT THAT CAN BE A SOURCE OF BLEEDING
11 Q SO YOU'RE GOING TO DO THE ULTRASOUND
12 TO LOOK FOR THE UTERUS?
13 A LOCATION OF THE PLACENTA
14 Q LOCATION OF THE PLACENTA I'M **SORRY**
15 AND IF THE PLACENTA IS PEELING AWAY, **THAT'S** A PREVIA?
16 A NO IF IT'S OVER THE CERVIX, **THAT'S** A
17 PREVIA **THAT'S** YOUR EXPLANATION FOR THE BLEEDING
18 Q RIGHT
19 A **THAT'S** SERIOUS THAT AND ABRUPTION
20 ARE SERIOUS
21 Q THAT PATIENT COMES INTO THE HOSPITAL
22 AT TERM IS STABLE, SATISFACTORY FETAL HEART TONES
23 YET COMPLAINING OF BLEEDING, YOU'RE GOING TO DO THE
24 ULTRASOUND TO LOOK FOR THE LOCATION OF THE PLACENTA?

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1 A YES
2 Q TO SEE IF THERE IS A PREVIA?
3 A RIGHT.
4 Q IN THAT PATIENT, IF THERE IS AN
5 ABRUPTION RATHER THAN A PREVIA, IS THAT ABRUPTION
6 GOING TO BE DEMONSTRATED ON THE ULTRASOUND?
7 A PROBABLY NOT.
8 Q WHY NOT?
9 A BECAUSE IF YOU HAVE -- YOU CAN HAVE
10 THE PLACENTA PEELED OFF THE UTERINE WALL, FAIRLY
11 EXTENSIVE PORTION OF IT, BUT, YOU KNOW, MAYBE THERE'S
12 ONLY A FEW MILLIMETERS OR A CENTIMETER GAP BETWEEN
13 THE WALL AND THE PLACENTA - BETWEEN THE PLACENTA AND
14 THE WALL OF THE UTERUS, THAT WON'T SHOW ON
15 ULTRASOUND
16 SECONDLY, YOU CAN OCCASIONALLY HAVE
17 SOME BLEEDING OF OLD BLOOD BEHIND THE PLACENTA, THREE
18 OR FOUR CENTIMETER CLOT YOU'LL FIND THOSE IN
19 PATIENTS WHO AREN'T ABRUPTING, HAVE NO CLINICAL
20 PROBLEM SO YOU HAVE MANY FALSE NEGATIVES AND SOME
21 FALSE POSITIVES YOU'RE STILL GOING TO ACT, YOU'RE
22 STILL GOING TO EVALUATE AND ACT ON THE ABRUPTION
23 BASED ON HOW THE BABY AND THE MOM ARE DOING AT THE
24 BEDSIDE, NOT WHAT THE ULTRASOUND LOOKS LIKE. SO IT

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1 BECOMES LESS MATERIAL.
2 Q ERICKA HAD AN ABRUPTION; CORRECT?
3 A CORRECT.
4 Q BABY DIED BECAUSE OF THE ABRUPTION?
5 A THAT'S CORRECT.
6 Q WHEN DID THE ABRUPTION OCCUR OR WHEN
7 DID THE ABRUPTION FIRST BEGIN TO DEVELOP IN YOUR
8 OPINION?
9 A AFTER SHE LEFT THE HOSPITAL ON APRIL
10 8TH.
11 Q AND WHY DID SHE DEVELOP AN ABRUPTION
12 AFTER SHE LEFT THE HOSPITAL ON THE 8TH?
13 A IT'S UNKNOWN WHY PEOPLE ABRUPT. IT'S
14 MORE COMMON IN PEOPLE WITH HYPERTENSION. IT'S MORE
15 COMMON IN CERTAIN AREAS OF THE WORLD, DIFFERENT
16 DIETS, ALL KINDS OF THINGS RAISE A QUESTION ABOUT
17 THAT. BUT IT'S NEVER KNOWN IN THE VAST MAJORITY OF
18 ABRUPTIONS WHY THEY OCCUR.
19 Q IN THIS PARTICULAR CASE, YOU HAVE NO
20 OPINION WHY SHE DEVELOPED THE ABRUPTION?
21 A THAT'S CORRECT.
22 Q DO I CONCLUDE CORRECTLY FROM YOUR
23 TESTIMONY THUS FAR THAT ON THE 7TH WHEN MOTHER AND
24 CHILD PRESENTED TO THE HOSPITAL THAT THEY WERE BOTH

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1 PERFECTLY HEALTHY AND HAPPY AND NORMAL?
2 A YES
3 Q AND DO I FURTHER CONCLUDE CORRECTLY
4 THAT WHATEVER BROUGHT ERICKA TO THE HOSPITAL ON THE
5 EVENING OF THE 7TH OR THE AFTERNOON OF THE 7TH WAS
6 COMPLETELY UNRELATED AND IN NO WAY ASSOCIATED WITH
7 THE SUBSEQUENT DEVELOPMENT OF THE ABRUPTION?
8 A I THINK IT'S MY OPINION, YES, I FEEL
9 THAT WAY SHE HAD FALSE LABOR
10 Q SO IN YOUR OPINION IT WAS COMPLETELY
11 COINCIDENTAL. SHE WAS IN THE EMERGENCY ROOM IN THE
12 EVENING HOURS OF THE 7TH, WENT HOME AND DEVELOPED AN
13 ABRUPTION?
14 A YES
15 Q PUTTING ASIDE ALL THE COULDS OR
16 SHOULD FOR A MOMENT, IF ERICKA HAD BEEN ADMITTED ON
17 THE EVENING OF THE 7TH FOR MONITORING THE FETAL HEART
18 TONES AND SHE THEN WENT ON TO DEVELOP THE ABRUPTION
19 AS YOU BELIEVE SHE DID AT A LATER TIME ON THE 8TH --
20 A HAD SHE BEEN KEPT ALL THIS TIME? I
21 DON'T UNDERSTAND YOUR HYPOTHETICAL SHE WAS
22 MONITORED SHE WAS MONITORED ABOUT THREE HOURS
23 Q LET'S JUST SAY INSTEAD OF SENDING HER
24 HOME SHE WAS ADMITTED TO THE HOSPITAL

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1 A THAT'S WHAT I SAID OKAY
2 Q SHE DEVELOPED THIS ABRUPTION WITHIN A
3 MATTER OF HOURS AFTER SHE WENT HOME, IS THAT YOUR
4 OPINION?
5 A YOU'RE ASKING -- IT'S ANOTHER
6 QUESTION YOU CHANGED QUESTIONS IN MID-SENTENCE
7 WITHIN HOURS, SURE.
8 Q AND LET'S GO BACK TO THE HYPOTHETICAL
9 IF SHE HAD COME TO THE HOSPITAL ON THE EVENING OF THE
10 7TH OR THE AFTERNOON AND BEEN ADMITTED FOR MONITORING
11 RATHER THAN BEING DISCHARGED --
12 A OKAY INSTEAD OF SENDING HER HOME
13 Q RIGHT IT'S YOUR OPINION THAT SHE
14 WOULD HAVE HAD THAT ABRUPTION WHILE SHE WAS IN THE
15 HOSPITAL?
16 A YES.
17 Q HAD SHE HAD THAT ABRUPTION WHILE IN
18 THE HOSPITAL, HOW WOULD THAT HAVE MANIFESTED ITSELF
19 TO MEDICAL PERSONNEL OBSERVING HER?
20 A IT DEPENDS AS SCHWARTZ SAID, AN
21 ABRUPTION SHOWS UP SEVERAL WAYS ONE IS WITH A DEAD
22 BABY WITHOUT BLEEDING
23 Q GIVEN WHAT WE KNOW ABOUT THE HISTORY
24 PROVIDED BY ERICKA AS TO WHAT HAPPENED TO HER

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1 A FETAL DISTRESS WOULD BE - OBVIOUSLY
2 THERE WOULD HAVE BEEN FETAL DISTRESS PRIOR TO THE
3 BABY DYING THAT WE CAN BE SURE OF
4 Q BLEEDING IN HER CASE?
5 A SOME BLEEDING ALL THEY DESCRIBED
6 WHEN THEY CAME IN THE NIGHT OF THE 8TH WAS BLOODY
7 DISCHARGE, BLOODY MUCUS SHE WOULDN'T HAD ANY MORE
8 BLEEDING IN THE HOSPITAL THAN WHAT SHE HAD WHEN SHE
9 WENT HOME I'M FAIRLY CERTAIN SHE DIDN'T HAVE A
10 WHOLE LOT OR SHE WOULD HAVE DESCRIBED IT DIFFERENTLY
11 WHEN SHE ARRIVED THAT NIGHT
12 Q WHAT BROUGHT HER BACK TO THE HOSPITAL
13 THE SECOND TIME?
14 A NO FETAL MOVEMENT
15 Q ANYTHING ELSE?
16 A DIDN'T COMPLAIN OF BLEEDING THEN. I
17 DON'T THINK
18 Q ANYTHING ELSE THAT BROUGHT HER BACK?
19 A I WOULD HAVE TO LOOK. I DON'T
20 REMEMBER.
21 Q WHAT I'M TRYING TO GET AT, IF SHE HAD
22 BEEN IN THE HOSPITAL IN THE EARLY MORNING HOURS OF
23 THE 8TH BEING MONITORED, DO YOU HAVE AN OPINION AS TO
24 WHETHER OR NOT THIS ABRUPTION WOULD HAVE BEEN PICKED

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1 UP BY HOSPITAL PERSONNEL?
2 A IF SHE HAD BEEN ON A MONITOR
3 CONTINUOUSLY WITH THEM PAYING AVERAGE AMOUNT OF
4 ATTENTION TO IT, 12 HOURS LATER OR THEREABOUTS, IT
5 PROBABLY WOULD HAVE BEEN PICKED UP, PROBABLY
6 Q WHAT ARE YOU SUPPOSED TO DO TO RESPOND
7 WHEN YOU'RE A NURSE OR A DOCTOR AND YOU'RE MONITORING
8 A PATIENT IN THE HOSPITAL AND THERE ARE SIGNS OF
9 FETAL DISTRESS WHICH ARE PORTENDING AN ABRUPTION.
10 WHAT DO YOU DO? IN OTHER WORDS, WHAT DO YOU DO TO
11 RESPOND TO THAT?
12 A IN SOMEBODY WHO IS TERM LIKE THIS
13 PATIENT, YOU MAKE PREPARATIONS TO GET THEM DELIVERED
14 BY THE MOST EXPEDITIOUS WAY
15 Q HAD ERICKA BEEN IN THE HOSPITAL AND
16 BEEN MONITORED AND THIS ABRUPTION DETECTED AND
17 ADEQUATE AND PROPER RESPONSE MADE, THAT IS MAKE
18 PREPARATION FOR DELIVERY. DO YOU HAVE ANY REASON TO
19 BELIEVE THIS CHILD WOULD NOT HAVE SURVIVED?
20 A A LOT OF NEGATIVES I THINK THE CHILD
21 WOULD HAVE SURVIVED IF THEY HAD KEPT HER IN THE
22 HOSPITAL. UNFORTUNATELY, THERE'S NO WAY OF KNOWING
23 THAT HE WOULD HAVE
24 Q LET'S GO BACK TO AN EARLIER POINT IN

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1 TIME. AS I RECALL YOUR TESTIMONY, YOU THINK THAT SHE
2 CAME TO THE HOSPITAL, IT'S YOUR OPINION THAT SHE CAME
3 IN THE HOSPITAL BECAUSE OF AN EPISODE OF FALSE LABOR.
4 A IT'S MY OPINION THAT'S WHAT SHE WOULD
5 HAVE GOING ON. SHE FELT UNCOMFORTABLE. YOU'RE
6 TALKING ABOUT THE 7TH?
7 Q YES.
8 A YOU WERE TALKING ABOUT THE 8TH A
9 MINUTE AGO.
10 Q THE 7TH, THE FIRST TIME SHE CAME TO
11 THE HOSPITAL. YOU'VE REVIEWED THE FETAL MONITOR
12 STRIPS I TAKE IT.
13 A YES.
14 Q DO YOU FIND EVIDENCE OF BRADYCARDIA IN
15 THE FETAL MONITOR STRIPS?
16 A VERY BRIEFLY WHEN SHE GOT THERE IT WAS
17 90 TO 110.
18 Q AND FOR WHAT PERIOD OF TIME WAS THAT?
19 A I DON'T HAVE IT MEMORIZED. I CAN LOOK
20 AT IT.
21 Q MY NOTATIONS REFLECT FROM 2150 TO 2300
22 HOURS. THAT WOULD BE FROM 9:50 TO 11 P.M.
23 A LET ME LOOK AT IT.
24 Q OKAY.

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1 A 9:50 THE RECORDING OF THE HEARTBEAT
2 ISN'T REALLY RECORDED START GETTING SOME HEARTBEAT
3 RECORDING AT 2210
4 Q I'M SORRY
5 A GOT SOME HEARTBEAT RECORDING THAT'S
6 INTERPRETABLE BEGINNING AT 2210 RANGING BETWEEN 110
7 AND 120 THERE. THERE'S A BETTER TRACING PICKED UP, A
8 FAIRLY CONTINUOUS TRACING BY 2220 AND IT'S
9 FLUCTUATING AROUND 120 IT'S A NORMAL HEART RATE
10 SO I WOULD TAKE ISSUE WITH YOUR DESCRIPTION OF
11 BRADYCARDIA FROM 9:50 TO 11:00
12 Q SINCE YOU'RE THE EXPERT AND YOU GOT
13 THE STRIPS IN FRONT OF YOU, WHY DON'T YOU JUST
14 IDENTIFY FOR ME WHERE YOU SEE ANY AREAS OF CONCERN IN
15 THE FETAL MONITOR STRIP, WHETHER IT'S BRADYCARDIA OR
16 ANYTHING ELSE
17 A BY AND LARGE IT'S A REASSURING
18 TRACING THERE ISN'T ANY AREA WHERE THE HEARTBEAT IS
19 SO MUCH SLOWER THAN NORMAL. BASELINE GOT AROUND 110,
20 BETWEEN 100 AND 120, AND THAT RANGES FROM ABOUT 10:25
21 TO ABOUT 10:50 WITHIN THAT AREA THERE IS A PERIOD
22 WHERE IT MIGHT BE ABOUT BETWEEN 90 AND 100 THAT
23 LASTS ABOUT FIVE OR SIX MINUTES THAT'S AT 2240
24 AFTER SHE'S HYDRATED AND AFTER SHE'S HAD BED REST AND

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1 AFTER ~~SHE~~ CALMS DOWN A LITTLE BIT, THE HEARTBEAT
2 GRADUALLY - THE BASELINE GRADUALLY RISES. SO IT'S
3 120 AT 10:30, ITS REASSURING
4 Q LET ME STOP YOU THERE I'M GONG TO
5 REWRITE WHAT YOU SAID AND YOU CORRECT ME IF I'M
6 WRONG BETWEEN 10:25 AND 10:50 IS THE ONLY PLACE ON
7 THE STRIP YOU FIND ANYTHING OF ANY CONCERN.
8 A RIGHT
9 Q AND THE CONCERN THAT YOU SEE THERE IS
10 THE FETAL HEART RATE DECREASED FROM 90 TO 110.
11 A NO. THE ONLY PERIOD WHERE THE HEART
12 RATE IS AT ALL EXCEPTIONAL IS THAT 25 MINUTES I
13 DESCRIBED
14 Q ALL RIGHT
15 A WITHIN THAT THERE IS A BRIEF FEW
16 MINUTE SEGMENT, WHAT I WOULD GUESS PROBABLY THREE OR
17 FOUR MINUTES, AROUND 2240, WHERE? THE HEARTBEAT IS
18 AROUND 100, FLUCTUATING BETWEEN 90 AND 100 MAYBE
19 FIVE MINUTES THEN IT'S BACK TO 110 AGAIN. IT'S A
20 REASSURING TRACING
21 Q BUT FOR THE REMAINDER OF THAT
22 25-MINUTE PERIOD OF TIME, ITS FLUCTUATING BETWEEN
23 100 AND 110?
24 A LIKE SIX MINUTES ITS 90 TO 100. FROM

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1 THEN ON IT'S 110 TO 11:00, THEN IT GRADUALLY RISES
2 AFTER THAT.
3 Q AT 10:25 WHAT IS THE FETAL HEART RATE?
4 A I GUESS, WITHOUT KNOWING WHERE 1025
5 IS, I WOULD GUESS 110 MAYBE. IF YOU PICK -- YOU HAVE
6 TO STAY AWAY FROM PICKING AN ISOLATED MOMENT AND
7 SAYING THIS IS WHAT THE HEART RATE IS. BECAUSE WHAT
8 YOU'RE INTERESTED IN IS PATTERNS AND TRENDS. IT'S
9 110, MAYBE A LITTLE MORE, AROUND 1025.
0 Q DURING THIS PERIOD OF TIME OF 10:25 TO
1 11:00 THAT YOU'VE BEEN DISCUSSING, TO WHAT DO YOU
2 ATTRIBUTE THE CHANGES OR THE DECREASED FETAL HEART
3 RATE, WHAT'S CAUSING THAT?
4 A I'M SURE IT'S MEDIATED THROUGH THE
5 FETUS'S VAGAL NERVE. WHY IT'S OCCURRING, IT'S NOT
6 CLEAR. BABY COULD BE SLEEPING. THE THEORY THEY
7 HAVE, SHE COULD BE A LITTLE DEHYDRATED BECAUSE SHE
8 GAVE A HISTORY OF LITTLE OR NO FOOD MAKE THAT DAY.
9 Q IS THAT WHY THEY HYDRATED HER?
0 A YES. THEY HYDRATED HER BECAUSE OF
1 WHAT SHE SAID.
2 Q WHAT DOES THE HYDRATION DO IN TERMS OF
3 CAUSING A CHANGE IN THE FETAL HEART RATE?
4 A I DON'T KNOW.

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1 Q YOU DON'T KNOW WHY THEY DO IT?
2 A I DON'T KNOW WHAT IT DOES. I THINK I
3 AGREE WITH SCHWARTZ TO SOME EXTENT THAT SHE
4 VOLUNTARILY WAS MAKING HERSELF NPO, MAKING HERSELF
5 DEHYDRATED IN EFFECT IT'S SOMETHING WE DO WITH
6 PEOPLE WHO COME IN AND SAY, I FEEL CRUMMY TODAY, I
7 HAVENT ATE OR DRUNK, YOU GIVE THEM FLUID GO TO THE
8 ER FOR FLUID GIVE THEM A COUPLE UNITS OF FLUID IF
9 THEY SAY SOMETHING ABOUT BEING DRY IT'S
10 EMPIRICALLY
11 Q WHEN MY WIFE WAS PREGNANT AND SHE
12 STARTED HAVING SOME PREMATURE CONTRACTIONS OR
13 SOMETHING, STEMPER HOSPITALIZED HER AND GAVE HER
14 FLUIDS
15 A DIFFERENT GAME THAT'S KIND OF
16 SHUTDOWN TOO WE ALL DO THAT, HYDRATE THE PREMATURE
17 LABOR PATIENT THE THEORY IS P E W S SOME
18 DEHYDRATION CAUSES CONTRACTIONS WE ALL DO IT
19 Q SAME THING WITH RESPECT TO DECREASED
20 FETAL HEART RATE, THAT'S SOMETHING PEOPLE TYPICALLY
21 DO BUT NOT REALLY SURE IT HAS ANY EFFECT ON IT?
22 A I'M NOT SO SURE ABOUT THAT I IMAGINE
23 SHE GOT THE FLUID BECAUSE SHE HAD SAID SHE HADN'T HAD
24 ANYTHING TO EAT OR DRINK THAT DAY SHE WAS

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1 UNCOMFORTABLE. THE POINT YOU GOT TO UNDERSTAND IS
2 THIS HEART RATE IS NOT THAT UNUSUAL FOR A NORMAL
3 PATIENT WHO HAS A NORMAL OUTCOME.
4 Q I'M TRYING TO FIGURE OUT, THEY'RE
5 GIVING HER THE FLUID BECAUSE OF THE DECREASED FETAL
6 HEART RATE?
7 A I DON'T KNOW THAT. I'M NOT SAYING
8 THAT. I'M NOT SURE WHY. I THINK I'M PRETTY CLEAR IN
9 MY ANSWERS. I'M NOT SURE THE TWO ARE RELATED. YOU
0 WOULD HAVE TO ASK BILLING THAT. I HAVE SEEN PEOPLE
1 DO THAT, GIVE FLUID FOR DECREASED HEART RATE.
2 CERTAINLY WHEN YOU HAVE WHAT YOU THINK IS A FETAL
3 DISTRESS SITUATION IN THE HEAT OF LABOR, ONE OF THE
4 FIRST THINGS YOU DO IS OPEN UP THE FLUID, THE I.V.
5 LINE. MAYBE THIS IS SORT OF THE CUSTOM THAT'S
6 EVOLVED OVER THE YEARS BECAUSE OF THAT. I DON'T
7 THINK THIS BABY'S IN FETAL DISTRESS AT THIS TIME.
8 Q ERICKA HAD A 1,500 CC RETROPLACENTAL
9 CLOT?
0 A CORRECT.
1 Q HOW DO YOU CHARACTERIZE THAT
2 QUANTITATIVELY? IS THAT A LARGE CLOT?
23 A YEAH. THAT'S THE VOLUME OF THREE
24 PINTS OF BLOOD. TWO PINTS IN A QUART, THAT'S A QUART

1 AND A **HALF** OF BLOOD
2 Q DO YOU **HAVE** AN OPINION AS TO HOW LONG
3 THAT BLEEDING WAS OCCURRING TO ACCUMULATE A
4 RETROPLACENTAL CLOT OF THAT MAGNITUDE?
5 A BLOOD FLOW TO THE PLACENTA IS 650 CC'S
6 A MINUTE AT **TERM** SO IT DOESN'T TAKE LONG IT COULD
7 HAPPEN IN A FEW MINUTES
8 Q LET'S TALK ABOUT THE CLOT FOR A
9 MINUTE CLOTTING, IF I'M UNDERSTANDING THE USE OF
10 THE TERM HERE, THE BLOOD JUST COAGULATED?
11 A **THEY** SAY CLOT I THINK YOU PROBABLY
12 HAD CLOT AND BLOODY **FLUID**, THAT IS PART OF THE BLOOD
13 THAT WAS LEFT **OVER FROM THE** CLOT ALTOGETHER IN THERE
14 Q WE'RE NOT TALKING ABOUT A CONCEALED, A
15 CONTAINED SAC OF BLOOD, **ARE** WE?
16 A NO WE'RE TALKING **ABOUT** BLOOD THAT IS
17 IN BETWEEN THE PLACENTA AND THE WALL OF THE UTERUS
18 Q BEING **HELD THERE** MECHANICALLY?
19 A **BY THE** PLACENTA, WHICH IS PROBABLY
20 ATTACKED AT THE EDGES KIND OF VIEW **THE** PLACENTA
21 WITH **THE** REMAINING ATTACHED AT THE EDGES TO **SOME**
22 EXTENT **AND** PUCKERING **OUT FROM** BEHIND WITH A BLOOD
23 CLOT
24 Q ARE YOU OF THE OPINION **THAT ALL** OF THE

1 BLEEDING THAT WAS OCCURRING **FROM THIS** ABRUPTION **WAS**
2 BEING CONTAINED **IN** THERE OR **ARE** YOU OF THE OPWION
3 SOME OF THE BLEEDING WAS COMING **OUT FROM** THAT CLOT
4 AREA?
5 A I DON'T THINK THERE WAS ALL THAT MUCH
6 BLEEDING COMING OUT, DESPITE THE TESTIMONY BY
7 ERICKA'S MOTHER, BECAUSE **THEY** DIDN'T COMPLAIN OF
8 VAGINAL BLEEDING, **THEY** COMPLAINED OF BLOODY
9 DISCHARGE SO I **THINK** THE **BULK** OF IT, THE OVERLAYING
10 **MAJORITY** OF IT WAS CONTAINED
11 Q FROM A PHYSIOLOGICAL STANDPOINT, YOU
12 DON'T **HAVE** ANY **TROUBLE** ACCEPTING THE CONCEPT THAT **SHE**
13 HAD A 1,500 CC RETROPLACENTAL CLOT, THE VAST MAJORITY
14 OF WHICH **WAS** CONTAINED THERE?
15 A THAT'S CORRECT, I DO NOT
16 Q **IS THERE** ANYTHING TO PREVENT BLEEDING
17 FROM COMING **OUT OF** THAT CLOT AREA?
18 A CHANCE IF THE PLACENTA REMAINS
19 ATTACHED AT ITS CIRCUMFERENCE AND IS SEPARATED **ON THE**
20 CENTER, **THEN** THE CLOT'S ALL CONTAINED IF IT'S
21 SEPARATED IN A LITTLE AREA, I'M TRYING TO MAKE A
22 CIRCLE OUT OF **MY** HANDS, A LITTLE WILL GET OUT IF IT
23 MANAGES TO DISSECT ITS WAY OUT, IT MIGHT COME ALL THE
24 WAY OUT TO THE OUTSIDE

1 Q WHAT DO YOU THINK HAPPENED IN THIS
2 CASE?
3 A I THINK MOST OF IT WAS CONTAINED
4 Q SO THERE WAS SOME DEGREE OF SEPARATION
5 WHERE THE BLEEDING CAME OUT?
6 A I DON'T KNOW. BECAUSE WHEN SHE
7 ARRIVED, SHE WAS NINE CENTIMETERS DILATED. SO SHE
8 HAD BEEN LABORING FOR A WHILE. THAT WILL CAUSE SOME
9 BLEEDING AND BLOODY DISCHARGE TOO. IT WILL CAUSE
10 WHAT THEY DESCRIBED.
11 WHEN THE OUTCOME WAS UNKNOWN, ERICKA
12 AND THE FAMILY DID NOT DESCRIBE VAGINAL BLEEDING,
13 THEY DESCRIBED VAGINAL BLEEDING DISCHARGE. SO I
14 DON'T THINK A SIGNIFICANT **AMOUNT** OF BLOOD CAME OUT.
15 NOT ENOUGH FOR MOM -- MOM WAS WITH HER. THE KID
16 KNOWS BLOOD **FROM** BLOODY MUCUS BECAUSE SHE HAD A
17 PERIOD EVERY MONTH. THAT'S WHY THEY ALL KNOW.
18 THAT'S WHY THEY USE THOSE TERMS, BY THE WAY. SO I
19 DON'T THINK ANY GREAT DEAL OF BLOOD CAME OUT.
20 Q YOU DON'T FIND ANYTHING DIFFICULT TO
21 ACCEPT IN THAT HYPOTHESIS?
22 A AS FAR AS **SHE** HAD ALL THIS BLOOD AND
23 IT WAS CONTAINED?
24 Q RIGHT.

1 A OR MOST OF IT WAS CONTAINED. I DO
2 NOT.
3 Q DO YOU SUBSCRIBE TO THE SCHOOL OF
4 THOUGHT THAT NURSING PERSONNEL WRITE THINGS DOWN
5 ACCURATELY ALL THE TIME?
6 MR. SCHUMACHER: OBJECTION. IT'S AN
7 OPEN-ENDED QUESTION.
8 A WE COULD BAT THAT AROUND FOR A WHILE.
9 I MEAN, YEAH, THEY DO A **GOOD** JOB. SOME ARE BETTER
10 THAN OTHERS. SOME DO A BETTER JOB SOME DAYS THAN
11 OTHERS, YEAH.
12 Q BUT YOU DO RECOGNIZE THAT WHAT GETS
13 WRITTEN **DOWN** IS NOT ALWAYS A COMPLETELY ACCURATE
14 ASSESSMENT OF WHAT'S **GOING ON**?
15 A I THINK THAT'S A MISLEADING QUESTION.
16 IT REQUIRES A MISLEADING ANSWER FROM ME **THAT I DON'T** T
17 REALLY BELIEVE. I BELIEVE BY AND LARGE MEDICAL
18 PROFESSIONALS DO A GOOD JOB AND CERTAINLY A
19 CONSCIENTIOUS JOB WRITING DOWN WHAT THEY SEE, AND
20 ALSO PATIENTS RELAY HISTORY THE BEST THEY CAN. WE
21 SIT DOWN AND PUT THEM **UNDER A** MICROSCOPE LATER, WE
22 FIND OUT THINGS THAT AREN'T 100 PERCENT RIGHT
23 Q CAN YOU READ **MY** QUESTION BACK?
24 ...

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1 THE QUESTION WAS READ BY THE REPORTER
2 ---
3 BY MR. LEESEBERG:
4 Q IF YOU WILL BEAR WITH ME AND TRY TO BE
5 A LITTLE MORE RESPONSIVE TO MY QUESTION, I WOULD
6 APPRECIATE IT WHAT I'M TRYING TO GET AT IS YOU DO
7 CONCEDE, DO YOU NOT, THAT TRY AS THEY MIGHT MEDICAL
8 PROFESSIONALS. WHETHER THEY BE NURSES OR DOCTORS,
9 LIKE OTHER PEOPLE IN ALL OTHER WALKS OF LIFE, ARE NOT
10 PERFECT AND SOMETIMES THEIR ASSESSMENT OR THEIR
11 RECORDATION OF WHAT IS OCCURRING IS NOT NECESSARILY
12 ACCURATE?
13 MR. SCHUMACHER: OBJECTION
14 ANSWER IF YOU CAN.
15 A YES, I WILL AGREE WITH THAT NONE OF
16 US IS PERFECT ALL THE TIME I SELDOM SAY NEVER OR
17 ALWAYS, TRUTHFULLY
18 BY MR. LEESEBERG:
19 Q I'M SURE YOU, YOURSELF, HAVE
20 EXPERIENCED SITUATIONS WHERE WHAT A NURSE HAS WRITTEN
21 DOWN IN YOUR ESTIMATION WAS NOT AN ACCURATE
22 REFLECTION OF WHAT THE TRUE SITUATION WAS OR
23 ACCURATE
24 A FROM TIME TO TIME, I THINK THAT'S

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1 TRUE.
2 Q I THINK I ASKED YOU AT THE OUTSET OF
3 THIS LINE OF QUESTIONING WHAT THE CAUSE OF THE
4 BRADYCARDIA WAS AND I DON'T REMEMBER WHAT YOUR ANSWER
5 WAS
6 A I SAID I DIDN'T KNOW
7 Q DO YOU HOLD THE UNDERSTANDING OR THE
8 OPINION THAT ERICKA HAD ABDOMINAL PAIN WHEN SHE
9 PRESENTED TO THE HOSPITAL ON 4-77
10 A YES
11 Q AND WHAT IN YOUR OPINION WAS THE CAUSE
12 OF HER PAIN?
13 A I THINK SHE WAS HAVING SOME
14 CONTRACTIONS APPARENTLY AND THEY STOPPED
15 Q DOES PAIN WITH CONTRACTIONS COME AND
16 GO WITH THE CONTRACTIONS?
17 A USUALLY DOES, YES
18 Q DO YOU HAVE AN UNDERSTANDING AS TO
19 WHETHER HER PAIN WAS INTERMITTENT OR WHETHER IT WAS
20 CONSTANT
21 A I DON'T HAVE A CLEAR UNDERSTANDING HOW
22 SHE -- I HAVE NOT SEEN HER DEPOSITION
23 Q DO YOU HAVE AN UNDERSTANDING HOW THE
24 RECORDS DESCRIBE IT?

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1 A LET ME LOOK AT IT
2 Q WITHOUT LOOKING AT THE RECORDS FIRST,
3 DO --
4 A IT'S NOT A MEMORY GAME, GERRY.
5 Q NO, IT'S NOT.
6 MR. SCHUMACHER: OBJECTION.
7 FEEL FREE TO LOOK AT THE RECORDS.
8 A I AM GONG TO LOOK AT THE RECORD.
9 Q ARE YOU SAYING YOU DON'T RECALL
10 WITHOUT LOOKING AT THE RECORDS?
11 A I'M NOT SAYING ANYTHING UNTIL I LOOK
12 AT THE RECORD. SHE HAD INTERMITTENT PAIN. THAT'S
13 WHAT I THOUGHT. CONTRACTUAL PAIN. THAT'S 4-9. WAIT
14 A MINUTE. THEY'RE DESCRIBING IN THE BEGINNING
15 CONTRACTIONS BEGINNING AT 7:30 P.M. ON THE NURSING
16 NOTE.
17 MR. SCHUMACHER: SO YOU'RE NOT MISLED
18 BY THIS DATE, WHICH WE'VE ALL SORT OF FLLRTED WITH,
19 THAT DATE OF 4-9 WE THINK IS INCORRECT. WE THINK
20 THAT WAS WRITTEN 4-8 AND MISDATED. IT'S
21 CONTEMPORANEOUS WITH WHAT'S GOING ON.
22 A SO 4-7 OR 8.
23 Q THAT WAS WRITTEN AFTER THE FACT?
24 A YES. IT'S DATED 1700.

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1 MR. SCHUMACHER: RIGHT.
2 A WERE THOSE PAINS INTERMITTENT OR NOT,
3 THERE'S NO DETAIL. I CAN'T FIND ANY DETAIL WHETHER
4 IT'S INTERMITTENT OR NOT. HER COMPLAINT IS NOT
5 QUOTED BUT DESCRIBED AS COMPLAINING OF LOWER
6 ABDOMINAL PAIN.
7 Q DO YOU HOLD AN OPINION AS TO WHAT THE
8 CAUSE OF HER LOWER ABDOMINAL PAIN WAS? I THINK I
9 ASKED AND YOU SAID CONTRACTIONS.
10 A CONTRACTIONS. LATE PREGNANCY
11 EVERYBODY HAS ROUND LIGAMENT PAIN, LOWER ABDOMINAL
12 DISCOMFORT. AS YOU SAID EARLIER, WE HAVE A 16 YEAR
13 OLD, ENORMOUS ANXIETY FACTOR NEAR TERM IN TEENAGERS
14 SO IT'S HARD TO TELL.
15 Q YOU'VE INDICATED THAT I BELIEVE HER
16 COMPLAINT OF VAGINAL BLEEDING WAS IN FACT A BLOODY
17 DISCHARGE.
18 A HER COMPLAINT, I'M SAYING THAT SHE
19 SAID THAT?
20 Q NO. THAT WAS A BAD QUESTION. THE
21 OTHER PRESENTING SYMPTOM OR THE OTHER PRESENTING
22 COMPLAINT WAS OF SOME BLEEDING.
23 A LATER ON. NEXT DAY WHEN SHE CAME
24 BACK.

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1 Q I'M TALKING THE FIRST NIGHT
2 A THE FIRST NIGHT, YOU'RE GOING BACK AND
3 FORTH THE FIRST COMPLAINT WAS BLEEDING THEN YOU
4 ARE ASKING ME IF SHE COMPLAINED OF BLEEDING WHEN SHE
5 CAME IN?
6 Q YES
7 A NO, I DON'T THINK SHE DID I THOUGHT
8 DECREASED FETAL MOVEMENT THAT WAS THE NEXT NIGHT,
9 4-8, SHE WENT TO THE CLINIC.
10 Q I'M TALKING ABOUT THE FIRST TIME SHE
11 CAME IN THE E.R.
12 A 4-7 IN THE EVENING
13 Q YOU DESCRIBED IT AS BLOODY DISCHARGE
14 A THAT'S THE WAY IT WAS NOTED THAT WAS
15 HOW THAT WAS NOTED BY THE MEDICAL PEOPLE THERE
16 Q DO YOU SEE ANY RECORDATION OF HER
17 COMPLAINT CONCERNING BLEEDING AS OPPOSED TO WHAT THEY
18 FOUND ON EXAMINATION?
19 A NO SHE COMPLAINED OF INTERMITTENT
20 ABDOMINAL PAIN, LIGHT CONTRACTIONS FOR A COUPLE
21 HOURS, DENIED BLEEDING OR SPONTANEOUS RUPTURE OF
22 MEMBRANES WERE TALKING ABOUT 4-7, RIGHT?
23 Q SO THE RECORDING SAYS THE PATIENT
24 DENIED ANY BLEEDING?

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1 A RIGHT
2 Q DID YOU FIND THAT HER ABDOMEN WAS
3 TIGHT AND FIRM ON APRIL 7TH?
4 A ONE OF THE PEOPLE WHO ASSESSED HER
5 DESCRIBED IT AS TIGHT AND HAVING A LARGE BABY
6 BILLING FELT IT WAS NOT IT WAS INDENTABLE, NOT
7 TIGHT PEOPLE WHO HAVE A LARGE BABY WILL HAVE A
8 TENSE ABDOMEN IT WOULD BE EASILY ELICITED BY
9 MEDICAL PERSONNEL.
10 Q DID SHE HAVE A BIG BABY?
11 A SEVEN-AND-A-HALF POUNDS OR SOMETHING
12 LIKE THAT I DON'T KNOW HOW TALL SHE IS. SHE
13 STARTED OUT WEIGHING 150, BUT I W N T KNOW HOW TALL
14 SHE IS
15 Q YOU TELL ME, IS THAT A BIG BABY FOR
16 HER?
17 A SHE IS 5 FOOT 1, YES
18 Q SO ARE YOU SAYING THAT YOU WOULD
19 CONCLUDE FROM THESE RECORDS THAT HER ABDOMEN WAS
20 TIGHT AND FIRM?
21 A NO, I DIDN'T SAY THAT I SAID THAT
22 SOMEBODY WHO HAS A FAIRLY LARGE BABY, W C H FOR A 5
23 FOOT 1 INCH TALL WOMAN SEVEN-AND-A-HALF POUNDS OR
24 WHATEVER THE BABY WAS IS ENOUGH TO MAKE HER ABDOMEN

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1 FEEL TENSE AND A MEDICAL PERSON, NOT A MEDICAL
2 EXAMINER, A MEDICAL PERSON HAS GOT TO TAKE THAT IN
3 CONSIDERATION WHEN DECIDING WHETHER OR NOT THE BELLY
4 IS TENSE
5 Q WHAT I'M TRYING TO GET AT IS YOUR
6 WORKING ASSUMPTION AS TO WHETHER OR NOT ERICKA HAD A
7 TIGHT AND FIRM ABDOMEN ON THE EVENING OF APRIL 7TH
8 DO YOU HAVE AN ASSUMPTION ONE WAY OR THE OTHER?
9 A I THINK SHE DIDN'T BECAUSE BILLING
10 DIDN'T FEEL IT WAS
11 Q DID NOT?
12 A DID NOT
13 Q SO IF THE NURSE IN FACT ASSESSED HER
14 AS BEING A TIGHT AND FIRM ABDOMEN, WHAT YOU ARE
15 SAYING IS HER ASSESSMENT IS INCORRECT?
16 A THAT'S A DIFFERENCE OF OPINION AS
17 YOU SAID, THERE'S DIFFERENCES OF OPINION YOU DIDN'T
18 SAY THAT; BUT, YES, INCORRECT THAT'S A GOOD
19 QUESTION, PHRASED THAT WAY DIFFERENCE OF OPINION IS
20 A DIFFERENCE OF OPINION I DON'T KNOW IF ITS
21 INCORRECT MAYBE SHE FELT IT DURING CONTRACTIONS OR
22 SOMETHING
23 Q DID YOU CONCLUDE FROM REVIEWING HER
24 RECORDS THAT SHE HAD INCREASED UTERINE RESTING TONE?

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1 A NO. I DON'T THINK YOU CAN CONCLUDE
2 MUCH OF ANYTHING FROM THAT PHRASING. IT'S ALL OVER
3 THE CHART. I MEAN IT'S ALL OVER THE BOTTOM OF THE
4 FETAL HEART RATE CHART. YOU CAN'T CONCLUDE ANYTHING
5 ABOUT TONE.
6 Q SO YOU DON'T SEE ANY EVIDENCE OF
7 INCREASED UTERINE RESTING TONE?
8 A I W N T THINK YOU CAN CONCLUDE
9 ANYTHING ABOUT IT. AND I DON'T, TO ANSWER YOUR
10 QUESTION ALSO.
11 Q WHAT ABOUT UTERINE TETANY?
12 A NO.
13 Q NO EVIDENCE OF THAT?
14 A UTERINE TETANY IS A BEDSIDE DIAGNOSIS
15 BY PUSHING WITH YOUR HANDS. EXTERNAL MONITORING
16 STUFF IS NOT VERY GOOD AT PICKING THAT UP.
17 Q HOW LONG DOES IT TAKE TO MAKE THAT
18 CLINICAL JUDGMENT?
19 A TETANY?
20 Q YES.
21 A SEVERAL MINUTES. UNLESS YOU GO IN
22 THERE AND STAND AND HOLD IT FOR 60 SECONDS, MAYBE ON
23 MINUTE, MAKE SURE YOU'RE NOT FEELING A CONTRACTION
24 PEAK.

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1 Q YOU DIDN'T SEE ANYTHING WHICH WAS
2 DESCRIPTIVE OF OR SUGGESTIVE OF UTERINE TETANY IN
3 THIS PATIENT?
4 A THAT'S CORRECT. EXCEPT SCHWARTZ'S
5 DEPOSITION.
6 Q WHY WAS THE PATIENT INJECTED WITH
7 VISTARIL?
8 A BECAUSE SHE PROBABLY APPEARED ANXIOUS
9 TO THEM. IT'S A MINOR TRANQUILIZER. WHICH WOULD NOT
10 BE UNLIKELY WITH A 16 YEAR OLD NEAR TERM. THEY'RE
11 TERRIFIED, ESPECIALLY WITH THIS BACKGROUND.
12 Q HOW ABOUT A 41-YEAR-OLD WHITE MALE,
13 WOULD HE BE TERRIFIED TOO?
14 A DO YOU WANT THE VISTARIL?
15 Q ANY TIME I GO NEAR A DELIVERY ROOM.
16 WHY WAS THE PATIENT HAVING A BLOODY DISCHARGE?
17 A PROBABLY HAD SOME CONTRACTIONS.
18 BLOODY SHOW. GOING TO START LABOR IN A FEW DAYS.
19 Q DID YOU FIND ANY EVIDENCE THAT HER
20 BLEEDING WAS INCREASED FOLLOWING EXAMINATIONS?
21 A I THINK THAT WAS MENTIONED. I THINK
22 THE EDINGTONS OR MRS. EDINGTON FELT THERE WAS MORE
23 BLOOD AFTER THE EXAM. THERE WAS A NOTE MADE THAT --
24 Q HOW ARE YOU GETTING THAT FROM MRS.

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1 EDINGTON?
2 A DEPOSITION, I READ FIVE PAGES.
3 Q I THOUGHT THAT WAS WICKA'S
4 DEPOSITION.
5 A NO.
6 Q IT WAS THE MOTHER?
7 A I DIDN'T READ ERICKA'S.
8 Q SO IT WAS MOM'S DEPOSITION?
9 A YES. I THINK SO, SOMEWHERE IN THE
10 MIDDLE OF THAT.
11 Q APART FROM WHAT MOM SAID, DID YOU SEE
12 ANY EVIDENCE THAT ERICKA'S BLEEDING INCREASED
13 FOLLOWING VAGINAL EXAMINATION IN THE RECORD?
14 A I WOULD HAVE TO LOOK AT IT. YES.
15 PATIENT HAD INCREASED BLOODY SHOW AFTER EXAMS.
16 THAT'S THE NOTE WRITTEN ON -- WE DON'T KNOW WHEN, I
17 GUESS.
18 MR. SCHUMACHER: 8TH/9TH.
19 A 8TH.
20 Q LET'S LOOK AT THE RECORD MADE ON APRIL
21 7TH ITSELF. DO YOU SEE ANY RECORDATION THEN OF
22 INCREASE IN BLEEDING AFTER EXAMINATION?
23 A BASICALLY THE HEART OF THAT 4-7 IS
24 THIS ONE PAGE, UNLESS I MISSED A PAGE.

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1 Q IS THAT SOMETHING WHICH IS NOT
2 UNEXPECTED FOR A PATIENT TO HAVE INCREASED BLEEDING
3 FOLLOWING AN EXAMINATION?
4 A IT'S NOT UNEXPECTED TO HAVE. WE TELL
5 EVERY PATIENT THAT'S GOING TO BE EXAMINED YOU MIGHT
6 BLEED AFTER THAT.
7 Q WHAT IS THE NATURE AND EXTENT OF THE
8 BLEEDING WHICH YOU WOULD EXPECT TO FIND?
9 A BRIGHT RED BLOOD. ENOUGH TO WEAR A
10 PAD, MAYBE CHANGE PADS ONCE. USUALLY SUBSIDES.
11 Q OVER HOW LONG A PERIOD OF TIME?
12 A A FEW HOURS. USUALLY CALL AT 10:00 AT
13 NIGHT, I'M READY TO GO TO BED, AND IT'S 10 OR 12
14 HOURS AFTER THEY HAVE BEEN EXAMINED.
15 Q BUT THE BLEEDING YOU ARE TALKING ABOUT
16 IN TERMS OF AMOUNT WOULD FILL A PAD OR TWO?
17 A YEAH.
18 Q DO YOU HAVE AN UNDERSTANDING AS TO
19 WHETHER OR NOT ULTRASOUND WAS AVAILABLE ON 4-7, IF IT
20 WAS DETERMINED THAT IT HAS NEEDED?
21 A YES, I ASSUME IT WAS. IT WAS
22 AVAILABLE ON 4-8 WHEN THEY CALLED THE GUY IN FROM
23 HOME.
24 Q DOES HYDRATING A PATIENT WITH AN

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1 IMPENDING OR EXISTING ABRUPTION TEND TO MASK SOME OF
2 THE EFFECTS OF AN ABRUPTION?
3 A I DON'T SEE HOW. I DON'T THINK SO.
4 THE EFFECTS OF THE ABRUPTION ARE ON THE FETUS, THAT'S
5 WHERE THE ACTION IS. SECONDARILY THEY ARE ON THE
6 MOTHER IF IT'S A BAD ENOUGH ABRUPTION. THE ACTION IS
7 ON THE FETAL MONITOR TRACING.
8 Q SO IT'S YOUR UNDERSTANDING GIVING A
9 MOTHER FLUIDS IS NOT GOING TO IN ANY WAY AFFECT THE
10 MANIFESTATIONS OF AN ABRUPTION?
11 A NOT GOING TO INTERFERE WITH THE
12 DIAGNOSIS.
13 Q IT'S NOT --
14 A IT'S NOT GOING TO INTERFERE WITH BEING
15 ABLE TO DIAGNOSE IT, I DON'T THINK SO. THIS LADY WAS
16 WATCHED FOR THREE HOURS.
17 Q I'M SORRY?
18 A THIS LADY WAS WATCHED FOR THREE HOURS.
19 THAT'S ADEQUATE TIME TO DIAGNOSE IT. AND A LITER OF
20 FLUID IS NOT GOING TO MAKE A DIFFERENCE AT ALL. I
21 THINK SHE ONLY GOT ONE LITER. I DON'T THINK SHE GOT
22 TWO, DID SHE?
23 Q ARE THERE SLOW ABRUPTIONS,
24 SLOW-DEVELOPING ABRUPTIONS?

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1 A YES.
2 Q IN A SLOW-DEVELOPING ABRUPTION, IF I
3 UNDERSTAND, THAT RESULTS IN A DECREASE BLOOD FLOW TO
4 THE CHILD.
5 A RIGHT. CAN.
6 Q AND TO THE EXTENT THERE'S DECREASED
7 BLOOD FLOW, THAT'S CONCOMITANT WITH DECREASE IN
8 OXYGENATION?
9 A CAN BE, SURE.
10 Q IS THAT WHAT PRODUCES FETAL DISTRESS?
11 A YES.
12 Q FETAL DISTRESS DUE TO DECREASED
13 OXYGENATION CAN RESULT IN A BRADYCARDIA?
14 A YES. USUALLY NOT AT FIRST. USUALLY
15 RESULTS IN LATE DECELERATION-TYPE PATTERNS OR
16 TACHYCARDIA AND BRADYCARDIA IS AN END-STAGE EVENT.
17 SO THIS LADY DIDN'T REALLY HAVE A BRADYCARDIA THAT
18 WAS THREATENING. THAT'S THE POINT I TRIED TO MAKE
19 EARLIER.
20 Q YOU REFERRED EARLIER TO A SILENT
21 ABRUPTION. THERE ARE ABRUPTIONS THAT ARE DIFFICULT
22 TO DIAGNOSE FROM A CLINICAL STANDPOINT?
23 A CAN BE, YES.
24 Q AND BY THAT DO YOU MEAN THAT A PATIENT

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1 MAY APPEAR AT THE EMERGENCY ROOM WITH WHAT APPEARED
2 TO BE NORMAL COMPLAINTS OR SYMPTOMS OF A TERM
3 PREGNANCY WHICH NEVER THELESS MAY BE ASSOCIATED WITH
4 AN IMPENDING OR DEVELOPING ABRUPTION?
5 A YES, OR EVEN A PRETERM PREGNANCY I
6 THINK SOME CASES OF PRETERM LABOR ARE IN FACT DEGREES
7 OF ABRUPTION
8 Q FROM WHAT YOU'RE SAYING, I TAKE IT
9 IT'S SOMETIMES HARD TO DISTINGUISH BETWEEN THE NORMAL,
10 SYMPTOMS OR COMPLAINTS ASSOCIATED WITH THE TERM
11 PREGNANCY AND DEVELOPING OR IMPENDING ABRUPTION.
12 A EXACTLY
13 Q HOW LONG DOES IT TAKE FOR AN ABRUPTION
14 TO EFFECT THE - I'M TRYING TO THINK OF A FANCY WORD
15 TO USE
16 A DON'T I'LL PROBABLY BE TOO STUMPED
17 Q I CAN'T THINK OF AN EASY WORD TO USE
18 EITHER
19 ...
20 DISCUSSION HELD OFF THE RECORD
21 ...
22 BY MR. LEESEBERG
23 Q AN ABRUPTION. DOES IT AFFECT THE
24 HEMOSTASIS OF THE PATIENT?

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1 A THE MOTHER'S, IT CAN, YES YOU HAVE
2 TO HAVE A SIGNIFICANT MAJOR-LEAGUE ABRUPTION TO
3 AFFECT THE MOTHER'S HEMOSTASIS
4 Q IF IT'S SIGNIFICANT ENOUGH. THAT WOULD
5 BE REFLECTED IN THE BLOOD LABORATORY WORK?
6 A COULD BE OR MORE IMPORTANTLY,
7 SPONTANEOUS BLEEDING FROM VENA PUNCTURE SITES.
8 EYEBALLS, CLIMS BLOOD IN THE URINE, BLEEDING WHEN YOU
9 PUT THE FOLEY IN, BLEEDING FROM AN IV SITE
10 Q WHAT I'M TRYING TO GET AT IS IF
11 THERE'S AN ABRUPTION GOING ON WHICH MAY OR MAY NOT BE
12 DIAGNOSED AND SOME BLOOD LABORATORY WORK IS WHEN ON
13 THE MOTHER, CAN THERE BE SIGNS IN THE BLOOD WORK
14 SUGGESTING POSSIBLE ABRUPTION?
15 A A SUBCLINICAL OR OTHERWISE SILENT
16 ABRUPTION IS HAPPENING?
17 Q YES
18 A NO THERE HAVE BEEN A NUMBER OF TESTS
19 LOOKED AT AS POSSIBLE INDICATORS OF THAT AND NOTHING
20 HAS ** OUT TO BE RELIABLE
21 Q WHEN SHE RETURNED TO THE HOSPITAL ON
22 4-8, IS IT YOUR OPINION THAT SHE STILL HAD A
23 SUBCLINICAL ABRUPTION?
24 A I DON'T KNOW IT GETS HARD TO SAY

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1 BECAUSE SHE WENT INTO LABOR. IN LABOR CONTRACTIONS
2 CAN BE A MANIFESTATION OF ABRUPTION ALSO
3 Q NOBODY DIAGNOSED HER AS HAVING AN
4 ABRUPTION WHEN SHE RETURNED, IS THAT CORRECT?
5 A WHEN DID THAT BECOME APPARENT TO THEM?
6 AFTER THEY DELIVERED THE DEAD BABY THEY FOUND A CLOT
7 THEY DID DIAGNOSE IT SHE RETURNED AND THEY
8 DIAGNOSED THAT I WAS ANSWERING THE OTHER QUESTION,
9 BUT GO AHEAD
10 Q BEFORE THEY DELIVERED THE CHILD AND
11 FOUND THE CLOT RETROPLACENTALLY, ARE YOU AWARE OF
12 ANYONE WHO HAS DIAGNOSED HER AS HAVING AN ABRUPTION?
13 A I DON'T THINK THERE'S ANYTHING WRITTEN
14 AT THAT POINT I DON'T KNOW WHAT PEOPLE WERE
15 THINKING THEY UNDOUBTEDLY WERE THINKING ABOUT
16 ABRUPTION ANYBODY WHO COMES IN TERM WITH A DEAD
17 BABY, THEY THINK ABOUT ABRUPTION MEDICAL STUDENTS
18 THINK ABOUT ABRUPTION IF THEY SEE A DEAD BABY AT
19 TERM, PARTICULARLY SOMEONE IN LABOR
20 Q GOING BACK TO YOUR EARLIER ANSWER. I
21 GOT THE IMPRESSION WHAT YOU'RE SAYING IS AN ABRUPTION
22 DOES NOT HAVE MUCH OF AN IMPACT ON HEMOGLOBIN.
23 HEMATOCRIT
24 A I DIDN'T MEAN TO IMPLY THAT YOU

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1 ASKED ABOUT HEMOSTASIS. THAT'S CLOTTING.
2 Q THAT WAS A POOR QUESTION. WHAT I'M
3 TRYING TO GET AT IS HEMOGLOBIN AND HEMATOCRIT.
4 A OKAY.
5 Q DOES AN ABRUPTION, EVEN SUBCLINICAL,
6 HAVE AN EFFECT ON HEMOGLOBIN AND HEMATOCRIT?
7 A MINOR DEGREE OF ABRUPTION WILL NOT.
8 YOU CAN HAVE AN ABRUPTION ENOUGH TO HAVE A BABY IN
9 DISTRESS BUT MAY OR MAY NOT HAVE AN EFFECT ON
10 HEMOGLOBIN. IT MAY BE A SUBTLE EFFECT. THE PROBLEM
11 IS WE DON'T DO HEMOGLOBINS EVERY WEEK, SO WE CAN'T
12 TELL THAT TODAY SO AND SO IS 9.3 AND LAST WEEK SHE
13 WAS 11.8; THEREFORE, SOMETHING'S GOING ON. WE DO
14 THEM ONCE AT 34 WEEKS OR SOMETHING.
15 Q DID SHE HAVE ANY BLOOD WORK DONE THAT
16 YOU ARE AWARE OF DURING HER FIRST HOSPITALIZATION ON
17 4-7?
18 A NOT TO MY KNOWLEDGE.
19 Q DID SHE HAVE SOME BLOOD WORK DONE WHEN
20 SHE RETURNED?
21 A YES.
22 Q AND DID THAT BLOOD WORK SHOW ANY
23 ABNORMALITIES?
24 A YES, SHE WAS ANEMIC.

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1 Q AND WHAT DOES THAT MEAN, SHE LOST
2 BLOOD?
3 A IN THESE CIRCUMSTANCES WE KNOW THAT IT
4 WENT OUT HER UTERUS. ALL YOU CAN CONCLUDE FROM
5 ISOLATED NUMBERS IS THE PATIENT IS ANEMIC. IN A
6 CLINICAL SETTING SHE LOST THIS BLOOD FROM AN
7 ABRUPTION.
8 Q BEAR WITH ME. WHEN YOU SAY ANEMIC,
9 WHAT DO YOU MEAN?
10 A LOW HEMOGLOBIN.
11 Q YOU ATTRIBUTE THAT TO THE ABRUPTION?
12 A RIGHT.
13 Q DID THAT INDICATE A SIGNIFICANT AMOUNT
14 OF BLOOD LOSS OR A SIGNIFICANT AMOUNT OF ANEMIA?
15 A YES. IT WAS ALSO AFTER THE FACT. IT
16 SOUNDS LIKE SHE CAME IN AND A COUPLE HOURS DELIVERED
17 I DON'T KNOW IF THE HEMOGLOBIN WAS BACK BEFORE SHE
18 DELIVERED.
19 Q I GUESS WHAT I'M TRYING TO FIND OUT, I
20 DON'T KNOW IF I'VE ASKED THE QUESTION YET, IS
21 LABORATORY BLOOD WORK OF ANY VALUE IN ASSISTING THE
22 MEDICAL PROFESSIONAL IN DIAGNOSING A POTENTIAL
23 ABRUPTION?
24 A A POTENTIAL ABRUPTION AHEAD OF TIME?

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1 Q ONE THAT'S DEVELOPING, ONE THAT'S
2 THERE OR DEVELOPING.
3 A NOT CONSISTENTLY. TOO MANY FALSE
4 POSITIVES AND TOO MANY FALSE NEGATIVES.
5 Q ARE BLOOD TESTS DONE NEVERTHELESS BY
6 MEDICAL PROFESSIONALS TO SEE IF THERE IS SOME USEFUL
7 INFORMATION TO HELP RULE IN OR RULE OUT AN ABRUPTION
8 A YES. CAN BE.
9 Q IS THAT WHY IT WAS DONE IN THIS CASE?
10 A I THINK IT WAS DONE TO SEE HOW ANEMIC
11 SHE WAS BECAUSE THEY NOTICED SHE WAS PALE ON
12 ADMISSION.
13 Q DO YOU HAVE ANY CRITICISMS OF DR.
14 BILLING'S CARE?
15 A NO.
16 Q ANY CRITICISMS OF ANY OF THE NURSING
17 CARE?
18 A NO.
19 Q ANY CRITICISMS OF THE NURSE MIDWIFE'S
20 CARE?
21 A NO.
22 Q NO CRITICISMS OF ANYBODY?
23 A THAT'S CORRECT.
24 Q THAT'S ALL I GOT. THANKS.

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1 ...
2 CROSS-EXAMINATION
3 BY MR. WEAVER:
4 Q JUST TO CLARIFY. DO I CORRECTLY
5 ASSUME THEN IF YOU HAVE NO CRITICISM OF THE DOCTORS,
6 NURSES OR MIDWIVES, YOU ALSO HAVE NO CRITICISMS OF
7 ANY OTHER COMMUNITY HOSPITAL EMPLOYEE?
8 A THAT'S CORRECT.
9 MR. SCHUMACHER: ANYTHING?
10 MR. SHADLEY: NO QUESTIONS.
11 THANKS.
12 ...
13 SIGNATURE NOT WAIVED.
14 ...
15 THEREUPON, AT 5:33 P.M.,
16 TUESDAY, AUGUST 22, 1995,
17 THE DEPOSITION WAS CONCLUDED.
18 ...
19
20
21
22
23
24

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STEPHEN J. DEVOE, M.D.

I CERTIFY THAT THIS DEPOSITION TRANSCRIPT
WAS SIGNED IN **MY** PRESENCE BY STEPHEN J. DEVOE, M.D.
ON THE ____ DAY OF _____, 1995.

IN WITNESS WHEREOF, I HAVE HEREUNTO **SET**
MY HAND AND AFFLXED **MY** SEAL OF OFFICE AT COLUMBUS,
OHIO, ON THIS ____ DAY **OF** _____, 199s.

NOTARY PUBLIC

MY COMMISSION EXPIRES:

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C E R T I F I C A T E

STATE OF OHIO)
) **SS:**
COUNTY OF FRANKLIN)

I, DENISE L. SHOEMAKER, REGISTERED
PROFESSIONAL REPORTER AND NOTARY PUBLIC IN AND FOR
THE STATE OF OHIO, DO HEREBY CERTIFY THAT BEFORE THE
TAKING OF HIS DEPOSITION, THE SAID STEPHEN J. DEVOE,
M.D., WAS FIRST DULY SWORN BY ME TO TELL THE TRUTH,
THE WHOLE **TRUTH**, AND NOTHING BUT THE TRUTH;

THAT SAID DEPOSITION WAS TAKEN IN ALL
RESPECTS PURSUANT TO THE STIPULATIONS OF COUNSEL
HERETOFORE SET FORTH AND GIVEN AT THE SAID TIME **AND**
PLACE BY THE SAID **STEPHEN J. DEVOE, M.D.**;

THAT I AM NOT AN ATTORNEY FOR OR
RELATIVE OF EITHER PARTY AND **HAVE** NO INTEREST
WHATSOEVER IN THE **EVENT** OF THIS LITIGATION.

IN WITNESS WHEREOF, I HAVE **HEREUNTO** SET
MY HAND AND OFFICIAL SEAL **OF O M C E A T** COLUMBUS,
OHIO, THIS 7TH DAY OF SEPTEMBER, 1995.

DENISE L. SHOEMAKER, RPR, NOTARY PUBLIC
IN **AND FOR** THE STATE **OF OHIO**.

MY COMMISSION EXPIRES: JANUARY 20, 1999.

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